

**ARKANSAS CODE  
OF 1987  
ANNOTATED**

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**VOLUME 25A • TITLE 24, CH. 1-8**



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# ARKANSAS CODE OF 1987 ANNOTATED



## VOLUME 25A

2000 Replacement

### TITLE 24: ENVIRONMENTAL LAW (CHAPTERS 1-8)

*Prepared by the Editorial Staff of the Publisher*

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## Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 1999 Regular Session. Annotations are to the following sources:

Arkansas Advance Reports through 337 Ark. 228 and 66 Ark. App. 108.

Federal Supplement through 35 F. Supp. 58.

Federal Reporter 3d Series through 168, p. 1310.

United States Supreme Court Reports, Lawyers' Edition, 2nd Series through 140, p. 969.

Bankruptcy Reporter through Volume 230, p. 891.

Arkansas Law Notes through the 1998 Edition.

Arkansas Law Review through Volume 51, p. 850.

University of Arkansas at Little Rock Law Journal through Volume 20, p. 1206.

## **Titles of the Arkansas Code**

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## **User's Guide**

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of Volume 1 of the Code.



# TITLE 24

## RETIREMENT AND PENSIONS

### (CHAPTERS 9-12 IN VOLUME 25B)

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## CHAPTER 1

### GENERAL PROVISIONS

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1. GENERAL PROVISIONS.
2. PUBLIC EMPLOYEES' SOCIAL SECURITY.

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- 24-1-106. Benefit enhancements.

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**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-1-101 — 24-1-105 may not apply to § 24-1-106 which was enacted subsequently.

**Publisher's Notes.** Acts 1991, No. 343, § 12, provided: “The Pension Review Board created under Arkansas Code § 24-1-103 is abolished”.

Former subchapter 1, concerning the Pension Review Board, was repealed by

Acts 1991, No. 343, § 12. The subchapter was derived from the following sources:

- 24-1-101. Acts 1985, No. 359, § 1; A.S.A. 1947, § 12-3312.
- 24-1-102. Acts 1985, No. 359, § 2; A.S.A. 1947, § 12-3313.
- 24-1-103. Acts 1985, No. 359, § 3; A.S.A. 1947, § 12-3314.
- 24-1-104. Acts 1985, No. 359, § 4; A.S.A. 1947, § 12-3315.

**Effective Dates.** Acts 1995, No. 613, § 6: Mar. 14, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the fiscal soundness of the various state-supported retirement systems is vital to the operation of Arkansas state government; that the proper fiscal management of public retirement systems promotes the goal of good government and provides public employees with an incentive to perform efficiently and effectively; and that any delay in implementing a policy of sound fiscal management with regard to state-supported retirement systems could result in a financial disaster for any marginally financed retirement system in Arkansas. Therefore, in order to prevent a potential financial catastrophe, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 11, § 7: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly that the Teacher Retirement System law does not recognize certain payments made by schools to teaching personnel as salary payments as defined under the retirement law, that allowing a broader definition of salary will help members achieve higher salaries for credit in the retirement system, that by increasing the benefits to members, more educators will be encouraged to stay in the teaching career fields, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 22, § 5: Feb. 4, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System currently provides members with noncontributory retirement service credit; that some members need to have contributory service credit to provide for an adequate retirement; and that providing for a change to contribu-

tory credited service will improve the motivation and effectiveness of the active teachers in Arkansas public schools. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 29, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain Teacher Retirement System retirants, for personal reasons which they do not wish disclosed, may want to suspend their benefits, that providing retirants with this option leaves the system open to question about liability for these suspended benefits and the law needs clarification in this situation, and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 30, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain Teacher Retirement System retirants are sometimes needed by the Arkansas Department of Education to fulfill vital positions within the educational system of Arkansas, that current retirement law limits the amount of salaries which can be paid to System retirees and the law needs to provide a method by which the System can waive those earning limitations, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and



safety shall become effective on July 1, 1999."

Acts 1999, No. 81, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System provides members with the option to choose either a contributory or noncontributory membership, that keeping track of these options consumes a considerable amount of administrative time and effort, that the law needs to be simplified to reduce the cost and effort of keeping track of these options, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 110, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System law recognizes private school and out-of-state service for the purchase of credited service; that allowing the purchase of smaller increments of credited service will help members achieve more service credit for their teaching careers, that by increasing the benefit to members, more educators will be encouraged to stay in the teaching career fields; and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 221, § 6: Feb. 23, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that members of the Teacher Retirement System who receive the minimum benefits are some of the poorest retirees and are in the most need of having their benefits increased, and that the minimum benefits need adjusting based on the number of years of service to increase the equity of the bene-

fit structure of the retirement system, and therefore this act should have effect immediately with the beginning of the State's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 311, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that, due to the ever escalating costs of health insurance and health care, benefits provided under the Arkansas State Highway Employees' Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1999."

Acts 1999, No. 312, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that deceased members of the Teacher Retirement System leave families in need of financial support and that there is a necessity of financial stability for families during this time of crisis and the death benefit provisions should be increased, and that increasing the death benefit provisions of the retirement system can most effectively be managed at the beginning of the state's fiscal year and therefore this act should have effect immediately with the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is



declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 335, § 6: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided under the Arkansas State Highway Employees’ Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1999.”

Acts 1999, No. 387, § 12: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that historically the State Police Retirement System has recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect of July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 388, § 6: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that historically the Judicial Retirement System has recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect on July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 395, § 7: July 1, 1999. Emergency clause provided: “It is hereby

found and determined by the Eighty-second General Assembly that certain retirement annuity options continue for long periods of time, that providing these retirants with the capability of changing those options in the event of a death or divorce of the retirant or his beneficiaries will provide the needed flexibility in their financial conditions and that the most effective time to make changes to the retirement system is at the beginning of the state’s fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 400, § 6: Mar. 4, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that changes in the amount of monthly benefits in the Teacher Retirement System are necessary for the continued financial stability of the current retirees and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year and therefore this act should have immediate effect. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 496, § 9: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that retirement benefits payable to current and future retirants and beneficiaries of the Arkansas Public Employees Retirement System are inadequate; that the current and future retirant and beneficiary payments should be increased as soon as possible in order to relieve this inequity, and that the effective fiscal administration of the System will be aided by implementing those increases at the same time as the state’s fiscal year begins. Therefore, in order to promote sound fiscal administration in

State government, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 535, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the exact percentage of the DROP contribution for the Arkansas Public Employees Retirement System should be specified in the law and for the effective administration of the System in this act must be effective at the beginning of the fiscal year because computations are made at the beginning of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 555, § 17: Mar. 12, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the state needs to assure that the system is able to provide the best possible benefits, including safe, adequate, and affordable facilities, for the system's members and that several changes in, and clarification of, existing laws are immediately necessary in order for the system to continue to efficiently, effectively and timely administer the member's retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 864, § 6: Mar. 25, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System currently provides members with noncontributory retirement service credit; that some members need to have contributory service credit to provide for an adequate retirement; and that providing for a change to contributory credited service will improve the mo-

tivation and effectiveness of the active teachers in Arkansas public schools. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 866, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system, that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort, that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 870, § 6: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in the State Highway Employees' Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective, and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of



the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 883, § 6: Mar. 29, 1999. Emergency clause provided: “It is found and determined by the General Assembly that members of the Arkansas Local Police and Fire Retirement System should be entitled to purchase credited service for military service; that this act corrects an inequity in the retirement system and should be given immediate effect. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 884, § 6: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the General Assembly that for the effective administration of this act, this act should become effective on July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 907, § 8: July 1, 1999. Emergency clause provided: “It is found and determined by the Eighty Second General Assembly of the State of Arkansas that the Teacher Retirement System provides members with the option to choose either a contributory or noncontributory membership, that Act 81 of 1999 will end this option and that some members need to have option restored to them, and that since Act 81 of 1999 will go into effect on July 1, 1999 then this act should be effective at the same time in order to avoid any statutory ambiguity. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 955, § 6: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that various Ar-

kansas public retirement systems have reduced the amount of service credit needed for full retirement to twenty-eight (28) years of credited service, that retirement benefits are an important incentive to keep experienced policemen and firemen on the job and to reward them for their faithful service, that experienced policemen and firemen are a valuable human resource and should be encouraged to stay on the job by keeping their fringe benefits equal with those of other public employees, and that the beginning of the state’s fiscal year is the best time to implement any change in retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 1999, No. 978, § 7: Mar. 31, 1999. Emergency clause provided: It is hereby found and determined by the Eighty-second General Assembly that Act 1241 of 1997 allowed the surviving spouses of police officers killed while in the official performance of his duties to continue to receive benefits if they remarried, that Act 1241 of 1997 became effective on August 1, 1997, and that surviving spouses of police officers killed while on duty prior to the effective date of Act 1241 lost retirement benefits upon any remarriage and should be able to benefit from this subsequent change in the law by making it retroactive. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 1325, § 14: July 1, 1999. Emergency clause provided: “It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in the State Highway Employees’ Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are

needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective, and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1450, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain provisions of the law governing the Public Employees' Retirement System need to be amended concerning eligibility for death benefits and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1453, § 8: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain individuals were required to reimburse the Local Police and Fire Retirement System for Social Security disability payments which they received; that this has worked a financial hardship on individuals who are the least able to absorb the cost of the reimbursements, and that certain individuals who paid the Local Police and Fire Retirement System for Social Security disability benefits should have those benefit reimbursements restored as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1460, § 6: Apr. 15, 1999. Emergency clause provided: "It is hereby

found and determined by the Eighty-second General Assembly, that for the effective administration of this act and to avoid undue harm to members of the Arkansas Public Employees' Retirement System it is necessary for this act to become effective immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1521, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that early retirement penalties for the Teacher Retirement System are overly harsh, that incentives for teachers to retire will improve staff morale and the working environment, and that the beginning of the fiscal year is the most advantageous time to implement benefit changes with the Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1587, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that for the effective administration of the system this act should become effective on July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1590, § 8: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System has reduced the amount of service credit needed for full retirement to twenty-eight (28) years of credited service, that the Teacher Deferred Retirement Option Plan is an important incentive to keep experienced teachers in the classroom rather than

retiring completely, that experienced teachers are a valuable human resource and should be encouraged to stay in the classroom, and that the beginning of the state's fiscal year is the best time to implement any change in retirement bene-

fits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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#### **24-1-101. Assets and income for retirement systems.**

All assets and income of any state-supported retirement system administered by an agency of the State of Arkansas shall be held, invested, or disbursed for the exclusive purpose of providing for benefits, investment management, and administrative expenses, including the acquisition of a building for the permanent offices of the state-supported retirement systems, and shall not be encumbered for or diverted to any other purposes.

**History.** Acts 1995, No. 613, § 1.

#### **24-1-102. Annual valuation.**

(a) Annually, each Arkansas state-supported retirement system shall make a valuation of each system's assets and incomes for the system.

(b) Actuarial assumptions and methods which are used for the annual valuation of each Arkansas state-supported retirement system shall be set by each system's board based upon the recommendations made by the board's actuary and agreed upon by the actuary employed by the Joint Committee on Public Retirement and Social Security Programs or other actuary employed by the General Assembly to review public retirement system legislation.

(c) If the board's actuary and the actuary employed by the General Assembly do not agree as to the actuarial assumptions and methods used to calculate the system's valuation, then a third actuary shall be selected mutually between the actuaries, and the third actuary shall determine the actuarial assumptions and methods to be used.

(d) The actuarial assumptions and methods shall include the actuarial funding method, the method of valuing assets, and similar actuarial matters involved in the actuarial valuation.

**History.** Acts 1995, No. 613, § 2.

#### **24-1-103. Change of contribution rate.**

No contribution rate of any state-supported retirement system in effect on March 14, 1995, shall be changed except by a vote of the General Assembly.

**History.** Acts 1995, No. 613, § 2.



**24-1-104. Liabilities not to exceed thirty-year amortization.**

No legislated benefit enhancement shall be enacted which would cause the system's unfunded accrued actuarial liabilities to exceed a thirty-year amortization.

**History.** Acts 1995, No. 613, § 2.

**24-1-105. Liabilities exceeding thirty-year amortization period — Legislated benefit enhancement prohibited.**

When any retirement system on or after March 14, 1995, has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years, that system shall not have a legislated benefit enhancement until the unfunded actuarial accrued liability is reduced to a level less than the standards set by this subchapter.

**History.** Acts 1995, No. 613, § 2.

**24-1-106. Benefit enhancements.**

No benefit enhancement provided for by §§ 24-2-302, 24-2-306, 24-2-401, 24-2-402, 24-2-501, 24-3-102, 24-3-106, 24-3-201, 24-3-208, 24-3-209, 24-3-301, 24-3-303, 24-3-304, 24-4-101, 24-4-106, 24-4-107, 24-4-301, 24-4-507, 24-4-508, 24-4-510, 24-4-511, 24-4-518 — 24-4-520, 24-4-601, 24-4-608, 24-4-618, 24-4-710, 24-4-745 — 24-4-747, 24-4-801, 24-4-803, 24-5-112, 24-5-119, 24-5-125, 24-5-133, 24-5-204, 24-6-219, 24-6-403 — 24-6-406, 24-6-410, 24-6-411, 24-7-202, 24-7-209, 24-7-301, 24-7-406, 24-7-504, 24-7-603, 24-7-604, 24-7-606, 24-7-607, 24-7-702, 24-7-705, 24-7-706, 24-7-708, 24-7-713, 24-7-720, 24-7-727, 24-7-728, 24-7-729, 24-7-1314, 24-7-1315, 24-7-1401 — 24-7-1409, 24-8-223, 24-8-226 — 24-8-228, 24-8-701 — 24-8-717, 24-10-102, 24-10-303, 24-10-504 — 24-10-509, 24-10-602, 24-10-611, 24-10-613, 24-11-425, 24-11-434, 24-11-437, 24-11-438, 24-11-805, 24-11-818, and 24-11-833 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by §§ 24-2-302, 24-2-306, 24-2-401, 24-2-402, 24-2-501, 24-3-102, 24-3-106, 24-3-201, 24-3-208, 24-3-209, 24-3-301, 24-3-303, 24-3-304, 24-4-101, 24-4-106, 24-4-107, 24-4-301, 24-4-507, 24-4-508, 24-4-510, 24-4-511, 24-4-518 — 24-4-520, 24-4-601, 24-4-608, 24-4-618, 24-4-710, 24-4-745 — 24-4-747, 24-4-801, 24-4-803, 24-5-112, 24-5-119, 24-5-125, 24-5-133, 24-5-204, 24-6-219, 24-6-403 — 24-6-406, 24-6-410, 24-6-411, 24-7-202, 24-7-209, 24-7-301, 24-7-406, 24-7-504, 24-7-603, 24-7-604, 24-7-606, 24-7-607, 24-7-702, 24-7-705, 24-7-706, 24-7-708, 24-7-713, 24-7-720, 24-7-727, 24-7-728, 24-7-729, 24-7-1314, 24-7-1315, 24-7-1401 — 24-7-1409, 24-8-223, 24-8-226 — 24-8-228, 24-8-701 — 24-8-717, 24-10-102, 24-10-303, 24-10-504 — 24-10-509, 24-10-602, 24-10-611, 24-10-613, 24-11-425, 24-11-434, 24-11-437, 24-11-438, 24-11-805, 24-11-818, and 24-11-833 shall be implemented by any publicly supported system which has

unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1999, No. 11, § 3; 1999, No. 29, § 2; 1999, No. 30, § 2; 1999, No. 81, § 3; 1999, No. 104, § 3; 1999, No. 110, § 3; 1999, No. 221, § 2; 1999, No. 311, § 2; 1999, No. 312, § 2; 1999, No. 325, § 13; 1999, No. 335, § 2; 1999, No. 387, § 8; 1999, No. 388, § 2; 1999, No. 395, § 3; 1999, No. 396, § 4; 1999, No. 399, § 5; 1999, No. 400, § 2; 1999, No. 404, § 2; 1999, No. 496, § 5; 1999, No. 535, § 2; 1999, No. 537, § 7; 1999, No. 555, § 13; 1999, No. 627, § 4; 1999, No. 705, § 2; 1999, No. 706, § 2; 1999, No. 710, § 2; 1999, No. 715, § 2; 1999, No. 716, § 3; 1999, No. 863, § 2; 1999, No. 864, § 2; 1999, No. 865, § 7; 1999, No. 866, § 8; 1999, No. 868, § 4; 1999, No. 869, § 2; 1999, No. 870, § 2; 1999, No. 883, § 2; 1999, No. 884, § 2; 1999, No. 901, § 3; 1999, No. 903, § 2; 1999, No. 907, § 3; 1999, No. 955, § 2; 1999, No. 978, § 3; 1999, No. 1010, § 3; 1999, No. 1067, § 5; 1999, No. 1070, § 6; 1999, No. 1171, § 3; 1999, No. 1325, § 9; 1999, No. 1450, § 3; 1999, No. 1453, § 4; 1999, No. 1455, § 2; 1999, No. 1458, § 3; 1999, No. 1459, § 2; 1999, No. 1460, § 2; 1999, No. 1521, § 2; 1999, No. 1587, § 2; 1999, No. 1590, § 4.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-1-101 — 24-1-105 may not apply to this section which was enacted subsequently.

## SUBCHAPTER 2 — PUBLIC EMPLOYEES' SOCIAL SECURITY

### SECTION.

- 24-1-201. Declaration of policy.
- 24-1-202. Definitions.
- 24-1-203. Rules and regulations.
- 24-1-204. Agreements with federal government and other states.
- 24-1-205. Plans for employees of political subdivisions.
- 24-1-206. Agents.
- 24-1-207. Contributions — State employees.

### SECTION.

- 24-1-208. Contributions — Employees of political subdivisions.
- 24-1-209. Matching contributions — Transfer.
- 24-1-210. Contribution Fund.
- 24-1-211. Social Security Contributions Bank Fund.
- 24-1-212. Withholding state funds.
- 24-1-213. Studies and reports.

**Effective Dates.** Acts 1951, No. 248, § 17: Mar. 9, 1951. Emergency clause provided: "The provisions of this Act are retroactive to January 1, 1951, in order to meet the requirements of the old-age survivors insurance provisions of Title II of the Federal Social Security Act [42 U.S.C. § 401 et seq.], as amended; and in order to expedite the application of this Act to the employees of the State and the political subdivisions thereof, thereby preserving the public peace, health and safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage."

Acts 1959, No. 237, § 2: Mar. 25, 1959. Emergency clause provided: "It is found by the General Assembly that some em-

ployees of the State and its political subdivisions are not properly reported to the Social Security Administration and that their wage credits might be placed in jeopardy. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of public peace, health and safety, shall take effect and be in full force from and after its passage and approval."

Acts 1968 (1st Ex. Sess.), No. 56, § 2: Feb. 27, 1968. Emergency clause provided: "The General Assembly of the State of Arkansas hereby finds and declares that the matters affected by this Act have a direct relation to the administration of the Social Security program for public employees in the State of Arkansas, and

that this Act is necessary to secure for the State of Arkansas an adequate return on moneys handled by it, and determines that the immediate passage of this Act is necessary. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after date of its passage and approval."

Acts 1979, No. 724, § 3: Apr. 3, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that additional interest could be earned on the Social Security Contributions Bank Fund if certain additional investments are permitted, without incurring additional risk. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 22, § 5: Feb. 4, 1999.

Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that an amendment to the State Public Employees' Social Security law is required to allow school employers to voluntarily exclude student services under federal P.L. 105-277 enacted on October 21, 1998 and that this federal law requires that the exclusion agreement be completed by March 31, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

## 24-1-201. Declaration of policy.

In order to extend to employees of the State of Arkansas and its political subdivisions and the employees' dependents and survivors the basic protection accorded to others by the old age and survivors' insurance system embodied in the Social Security Act, it is declared to be the policy of the State of Arkansas, subject to the limitations of this subchapter, that steps be taken to provide protection to employees of the state and its political subdivisions in compliance with the provisions of the Social Security Act.

**History.** Acts 1951, No. 248, § 1; A.S.A. 1947, § 12-2401.

**Publisher's Notes.** Acts 1955, No. 427 provided for a referendum on the question of whether service in positions covered by a retirement system established by the state or a political subdivision thereof, excluding all positions covered by the Teacher Retirement System other than those positions covered by the Teacher Retirement System in the state-supported institutions of higher learning, should be excluded from or included under an agree-

ment authorized by this subchapter. Acts 1961, No. 210 provided for a referendum on the question of whether service in positions covered by the Teacher Retirement System, other than those positions covered by the Teacher Retirement System in the state-supported institutions of higher education, should be excluded from or included under an agreement authorized by this subchapter.

**U.S. Code.** The Social Security Act, referred to in this section, is codified as 42 U.S.C. § 301 et seq.



**24-1-202. Definitions.**

As used in this subchapter, unless the context otherwise requires:

(1) "Employee" means an officer or an employee of the state or a political subdivision thereof. All public employees of the State of Arkansas and its political subdivisions, for social security purposes, shall be deemed employees of the paying political entity for which services are rendered, which entity shall be the proper agency for making the deductions, matching contributions, and report required by this subchapter;

(2) "Employment" means any service performed by an employee in the employ of the state or any political subdivision of the state for his employer except:

(A) Services which, in the absence of any agreement entered into under this subchapter, would constitute employment as defined in the Social Security Act; or

(B) Services which, under the Social Security Act, may not be included or may have been voluntarily excluded, under authority granted by federal law or regulations, in an agreement between the state and the federal security administrator entered into under this subchapter;

(3) "Federal Insurance Contributions Act" means Subchapter A of Chapter 9 of the federal Internal Revenue Code, as amended;

(4) "Federal security administrator" means any individual to whom the federal Social Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under that act of employees of the state and its political subdivisions;

(5) "Political subdivision" means an instrumentality of the state, of one (1) or more of its political subdivisions, or of the state and one (1) or more of its political subdivisions, but only if its instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not, by virtue of their relation to the juristic entity, employees of the state or subdivision;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", as amended, including regulations and requirements issued pursuant thereto;

(7) "State agency" means the Board of Trustees of the Arkansas Public Employees' Retirement System; and

(8) "Wages" means all remuneration for employment as defined in this section, including the cash value of all remuneration paid in any medium other than cash, except that it shall not include that part of such remuneration which, even if it were for employment within the meaning of the Federal Insurance Contributions Act, would not constitute wages within the meaning of that act.

**Amendments.** The 1999 amendment inserted "or may have been voluntarily excluded, under authority granted by federal law or regulations" in (2)(B).

**U.S. Code.** Subchapter A of Chapter 9

of the Internal Revenue Code, referred to in this section, is codified as 26 U.S.C. § 3101 et seq. The Social Security Act is codified as 42 U.S.C. § 301 et seq.

### CASE NOTES

#### Political Subdivision.

The fact that Ark. Const., Amend. 42 created the State Highway Commission and provided for the appointment of commissioners did not make the Arkansas

State Highway & Transportation Department a political subdivision of the state. *Arkansas State Hwy. Comm'n v. Clayton*, 226 Ark. 712, 292 S.W.2d 77 (1956).

### 24-1-203. Rules and regulations.

The state agency shall make and publish rules and regulations not inconsistent with the provisions of this subchapter it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this subchapter.

**History.** Acts 1951, No. 248, § 10; A.S.A. 1947, § 12-2410.

### 24-1-204. Agreements with federal government and other states.

(a) The state agency, with the approval of the Governor, is authorized to enter, on behalf of the state, into an agreement, consistent with the terms and provisions of this subchapter, with the federal security administrator for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state, or any political subdivision thereof, with respect to services specified in the agreement which constitute employment as defined in § 24-1-202. This agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and such other matters as the state agency and the federal security administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, the agreement shall provide, in effect, that:

(1) Benefits will be provided for employees whose services are covered by the agreement, as well as for their dependents and survivors, on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) The state shall pay to the Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in § 24-1-202, equal to the sum of the taxes which would be imposed by §§ 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(3) It shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but



in no event may it be effective with respect to any services performed prior to January 1, 1951, or such other date as may be provided by the Social Security Act;

(4) All services which constitute employment as defined in § 24-1-202 and are performed in the employ of the state by employees of the state shall be covered by the agreement; and

(5) All services shall be covered by the agreement which:

(A) Constitute employment as defined in § 24-1-202;

(B) Are performed in the employ of a political subdivision of the state; and

(C) Are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under § 24-1-205.

(b) The state agency is authorized to enter, on behalf of the state, into an agreement with the appropriate agency or agencies of any other state and with the federal security administrator, whereby the benefits of the federal old age and survivors' insurance system shall be extended to employees of any instrumentality jointly created by this state and any other state or states. The agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (a) of this section and other provisions of this subchapter.

**History.** Acts 1951, No. 248, § 3; 1953, No. 410, § 1; A.S.A. 1947, § 12-2403.

**U.S. Code.** The Social Security Act, referred to in this section, is codified as 42

U.S.C. § 301 et seq. The Federal Insurance Contributions Act is codified as 26 U.S.C. § 3101 et seq.

## **24-1-205. Plans for employees of political subdivisions.**

(a) Each political subdivision of the state is authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with the applicable provisions of that act, to employees of the political subdivisions. Each plan, and any amendment to it, shall be approved by the state agency if it finds that the plan, or plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no plan shall be approved unless:

(1) It is in conformity with the requirements of the Social Security Act and with the agreement entered into under § 24-1-204;

(2) It provides that all services which constitute employment as defined in § 24-1-202 and are performed in the employ of the political subdivisions by the employees thereof shall be covered by the plan;

(3) It specifies the sources from which the funds necessary to make the payments required by § 24-1-208(a)(1) and (b) are expected to be derived and contains reasonable assurance that the sources will be adequate for that purpose;

(4) It provides for methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;

(5) It provides that the political subdivision shall make reports in such form and containing such information as the state agency may require and shall comply with the provisions as the state agency or the federal security administrator may find necessary from time to time to assure the correctness and verification of reports; and

(6)(A) It authorizes the state agency to terminate the plan in its entirety in the discretion of the state agency, if the state agency finds that there has been a failure to comply substantially with any provision contained in the plan.

(B) The termination is to take effect at the expiration of the notice and on the conditions as may be provided by regulations of the state agency and as may be consistent with the provisions of the Social Security Act.

(b) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection (a) of this section and shall not terminate an approved plan without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

**History.** Acts 1951, No. 248, § 5; referred to in this section, is codified as 42 A.S.A. 1947, § 12-2405. U.S.C. § 301 et seq.

**U.S. Code.** The Social Security Act,

## **24-1-206. Agents.**

(a) For the purpose of entering into agreements with the state agency, the following named officers are authorized and empowered to make the agreement on behalf of their agency or political subdivision:

(1)(A)(i) The board of control of each state institution or agency having a board or the administrative head of each state department.

(ii) The board of control shall have authority to designate an agent to represent the agency over which it has control.

(B) In the case of state agencies which do not have a board of control, the chief administrative officer shall act as the contracting officer for the agency;

(2) The county judge of each county entering into an agreement with the state agency shall make and enter of record a county court order approving the agreement with the state agency and shall designate the county clerk as the agent of the county to deal with the state agency;

(3) The city council of each municipality is authorized to approve the agreement with the state agency and shall adopt an ordinance designating the city clerk or recorder to represent the municipality;

(4) The board of directors of each school district shall have authority to approve the agreement with the state agency and shall designate the county school supervisor or the local superintendent of each school district to deal with the state agency.

(b)(1) In complying with the provisions of this subchapter, each political subdivision which qualifies to participate in the social security plan shall be required as a part of its agreement with the state agency to designate an agent to represent the political subdivision in all matters affecting the administration of the plan.

(2) Each agent shall be required to execute a corporate surety bond with a corporate surety company authorized to do business in the State of Arkansas in the sum the state agency may determine to be proper and just to assure the faithful performance of the duties imposed and the proper accounting of all funds due the Contribution Fund from the subdivision.

(c) All agents provided for under the provisions of this subchapter who represent the state or a local subdivision in connection with the enforcement of this subchapter shall receive no additional remuneration or emolument of their offices in connection with the administration of this subchapter.

**History.** Acts 1951, No. 248, §§ 7, 9, 10; A.S.A. 1947, §§ 12-2407, 12-2409, 12-2410.

#### **24-1-207. Contributions — State employees.**

(a) Every employee of the state whose services are covered by an agreement entered into under § 24-1-204 shall be required to pay contributions, for the period of the coverage, into the Contribution Fund established by § 24-1-210, contributions, with respect to wages as defined in § 24-1-202, equal to the amount of tax which would be imposed by § 1400 of the Federal Insurance Contributions Act if those services constituted employment within the meaning of that act. This liability shall arise in consideration of the employee's retention in the service of the state, or his entry upon such service.

(b) The contributions imposed by this section shall be collected by deducting the amount of the contributions from wages as and when paid, but failure to make the deduction shall not relieve the employee from liability for his contributions.

(c) If more or less than the correct amount of the contributions imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or a refund if an adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

**History.** Acts 1951, No. 248, § 4; Contributions Act, referred to in this section, is codified as 26 U.S.C. § 3101 et seq. A.S.A. 1947, § 12-2404.

**U.S. Code.** The Federal Insurance

#### **24-1-208. Contributions — Employees of political subdivisions.**

(a)(1) Each political subdivision as to which a plan has been approved under § 24-1-205 shall pay into the Contribution Fund, with respect to wages as defined in § 24-1-202 and at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under § 24-1-204.

(2)(A)(i) Each political subdivision required to make payments under subdivision (1) of this subsection is authorized, in consideration of the



employee's retention in, or entry upon, employment, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to the employee's wages as defined in § 24-1-202.

(ii) This amount shall not exceed the amount of tax which would be imposed by § 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act.

(B)(i) The political subdivision is authorized to deduct the amount of the contribution from the employee's wages as and when paid.

(ii) Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of the political subdivision or instrumentality under subdivision (1) of this subsection.

(C) Failure to deduct the contribution shall not relieve the employee or employer of liability therefor.

(b) Delinquent payments due under subdivision (a)(1) of this section may be recovered, with interest at the rate of six percent (6%) per annum, by an action in a court of competent jurisdiction against the political subdivision liable therefor or at the request of the state agency may be deducted from any other moneys payable to the subdivision by any department or agency of the state.

**History.** Acts 1951, No. 248, § 5; Contributions Act, referred to in this section, is codified as 26 U.S.C. § 3101 et seq.  
A.S.A. 1947, § 12-2405.

**U.S. Code.** The Federal Insurance

## **24-1-209. Matching contributions — Transfer.**

(a)(1) All subdivisions of the state government which enter into the agreements provided for under this subchapter, together with all state agencies whose funds are not deposited in the State Treasury, are authorized and directed to match contributions of employees out of the funds as are available.

(2) No additional appropriation or authorization shall be required for matching contributions.

(b)(1) After the close of each quarter, the state agency shall make and certify to the Treasurer of State the amount required as matching contributions by the agencies and departments operating from State Treasury funds, setting out the amount to be charged against each fund.

(2) Upon receipt of the certificate, the Treasurer of State shall charge the fund so affected and shall credit a like amount to the Contribution Fund.

**History.** Acts 1951, No. 248, §§ 8, 14;  
A.S.A. 1947, §§ 12-2408, 12-2414.

## CASE NOTES

**Payment from Appropriations.**

An appropriation to carry out the requirements of the Social Security Act could not be made retroactive because to do so would require the payment by the

state of an obligation from a prior biennium from the current biennium appropriation. *Arkansas State Hwy. Comm'n v. Clayton*, 226 Ark. 712, 292 S.W.2d 77 (1956).

**24-1-210. Contribution Fund.**

(a) There is established a special fund in the State Treasury to be known as the Contribution Fund, which shall consist of and there shall be deposited therein:

(1) All contributions, interest, and penalties collected under §§ 24-1-207 and 24-1-208;

(2) All matching contributions due under the provisions of this subchapter;

(3) Any moneys paid to the state pursuant to any agreement entered into under § 24-1-204(b);

(4) Any property or securities, and earnings thereof, acquired through the use of moneys belonging to the fund;

(5) Interest earned upon any moneys in the fund; and

(6) All sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source.

(b) All moneys in the fund shall be mingled and undivided.

(c) Subject to the provisions of this subchapter, the state agency is vested with full power, authority, and jurisdiction over the fund, including all moneys and property or securities belonging thereto. The state agency may perform any and all acts, whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this subchapter.

(d) The Contribution Fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of this subchapter.

(e) From the Contribution Fund, the custodian of the fund shall pay to the Secretary of the Treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under § 24-1-204 and the Social Security Act.

(f) The Treasurer of State shall be ex officio treasurer and custodian of the Contribution Fund and shall administer the fund in accordance with the provisions of this subchapter and the directions of the state agency. He shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant to this section.

(g)(1) In the event funds are due the state agency on account of matching contributions and settlement has not been made with the state agency prior to the time allowed for the state agency to make its report and remittance to the Secretary of the Treasury, the Treasurer of State shall, upon certification by the state agency, transfer from the



General Revenue Fund Account of the State Apportionment Fund to the Contribution Fund the amount required to pay the balance due the Secretary of the Treasury by the state agency.

(2) When amounts due the state are recovered by or paid to the state agency, as provided under this subchapter, then any amounts due the General Revenue Fund Account of the State Apportionment Fund on account of advances made shall be repaid to the fund upon certification to the Treasurer of State by the state agency.

(3)(A) If any payments are made to the state agency in excess of amounts which would be required to meet the obligations of any political subdivision, the state agency shall have the authority to make such adjustments as are necessary and may refund any excess payments or amounts erroneously paid into the Contribution Fund.

(B) Any adjustments or refunds may be made out of any appropriation which the General Assembly may make out of the Contribution Fund.

**History.** Acts 1951, No. 248, § 6; referred to in this section, is codified as 42 A.S.A. 1947, § 12-2406. U.S.C. § 301 et seq.

**U.S. Code.** The Social Security Act,

## **24-1-211. Social Security Contributions Bank Fund.**

(a) In addition to the Contribution Fund established in § 24-1-210, there is created a trust fund which shall be designated the Social Security Contributions Bank Fund. This fund shall be maintained by the state agency in such depository banks as may be designated from time to time by the state agency and shall consist of and there may be deposited therein:

(1) Any contributions, interest, and penalties collected under §§ 24-1-207 and 24-1-208;

(2) All matching contributions due under the provisions of this subchapter;

(3) Any moneys paid to the state pursuant to any agreement entered into under § 24-1-204(b);

(4) Any property or securities, and earnings thereof, acquired through the use of moneys belonging to the fund;

(5) Interest earned upon any money in the fund; and

(6) All sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any source.

(b) All moneys in the fund shall be mingled and undivided.

(c)(1) Subject to the provisions of this subchapter, the state agency is vested with full power, authority, and jurisdiction over the fund, including all moneys and property or securities belonging thereto. The state agency may invest the fund in direct general obligations of the United States, in certificates of deposit or savings accounts in an amount not to exceed the capital funds, represented by capital, surplus, and undivided profits in financial institutions located in Arkansas that

are insured by an agency of the federal government and in repurchase agreements which are collateralized by direct general obligations of the United States or by bonds, notes, debentures, participation certificates, or other obligations issued by an agency of the United States, the principal and interest of which are guaranteed by the agency or the United States.

(2) The term "agency", as used in this subsection, shall include the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Bookkeeping Entry System.

(3) The investments authorized by this subsection may be made pending the time the funds shall be paid to the Social Security Administration.

(d) The state agency may perform any and all acts, whether or not specifically designated, which are necessary to the administration of the fund and are consistent with the provisions of this subchapter.

(e) All income of the fund of whatever nature is specifically declared to be cash funds.

**History.** Acts 1951, No. 248, § 6; 1968 (1st Ex. Sess.), No. 56, § 1; 1979, No. 724, § 1; A.S.A. 1947, § 12-2406.

#### **24-1-212. Withholding state funds.**

(a)(1)(A) In the event any agency, department, or political subdivision of the state shall fail, neglect, or refuse to make proper settlement with the state agency of any matching contributions, contributions withheld from the employees, or any other payments found to be legally due, then and in that event, the state agency is authorized to certify that fact to the Treasurer of State.

(B) The Treasurer of State is directed to withhold from the agency, department, or political subdivision the amount found to be in default from any funds on hand or any funds that may come into the State Treasury belonging to the agency, department, or political subdivision.

(2)(A) For the purposes of this subchapter, any funds so withheld arising from taxes collected by the State of Arkansas for the agency, department, or political subdivision of the state are declared to be taxes levied and collected for the operation of the agency, department, or political subdivision.

(B) The Treasurer of State is directed to transfer the amount so withheld to the Contribution Fund.

(b) In the event any agency, department, or political subdivision of the state shall fail, refuse, or neglect to make a report to the state agency under such rules and regulations as may be prescribed by the state agency not inconsistent with this subchapter, and when the state agency has certified that fact to the Treasurer of State, any state funds then due or that may become due the agency, department, or political subdivision shall be withheld by the Treasurer of State until such time as all delinquent reports are filed and approved by the state agency.

**History.** Acts 1951, No. 248, §§ 12, 13;  
A.S.A. 1947, §§ 12-2412, 12-2413.

**24-1-213. Studies and reports.**

- (a) The state agency shall make studies concerning the problem of old age and survivors' insurance protection for employees of the state and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this subchapter.
- (b) The state agency shall submit a report at the beginning of each regular legislative session covering the administration and operation of this subchapter during the preceding fiscal year and including such recommendations and amendments to this subchapter as it considers proper.

**History.** Acts 1951, No. 248, § 11;  
A.S.A. 1947, § 12-2411.

CHAPTER 2

PUBLIC EMPLOYEE RETIREMENT PLANS

GENERALLY

- SUBCHAPTER.
1. GENERAL PROVISIONS.
  2. INVESTMENTS.
  3. CORRECTION OF ERRONEOUS MEMBERSHIPS.
  4. RECIPROCAL SERVICE CREDITS.
  5. MILITARY SERVICE CREDIT.

RESEARCH REFERENCES

**Am. Jur.** 60 Am. Jur. 2d, Pensions, § 39  
et seq.

**C.J.S.** 67 C.J.S., Officers, § 243 et seq.

70 C.J.S., Pensions, § 1 et seq.  
81A C.J.S., States, § 112 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.  
24-2-101. [Repealed.]

**24-2-101. [Repealed.]**

**Publisher's Notes.** This section, which concerned retirement benefits during service in elective office, was repealed by Acts 1987, No. 57, § 2. The section was derived from Acts 1977, No. 470, §§ 1, 2; 1979, No. 360, § 1; A.S.A. 1947, §§ 12-2518.1, 12-2518.2.



## SUBCHAPTER 2 — INVESTMENTS

## SECTION.

- 24-2-201. Permissible investments of political subdivision retirement funds.
- 24-2-202. Procedure for purchase or sale of securities.
- 24-2-203. First lien serial coupon bonds of local industrial development corporations.

## SECTION.

- 24-2-204. Default in payment of principal or interest.
- 24-2-205. Purchase of obligations not cancellation — Trust.
- 24-2-206. Jurisdiction and custodianship of funds — Interest.
- 24-2-207. Assets and income for retirement systems.

**Publisher's Notes.** Acts 1977, No. 793, § 11, provided, in part, that after July 1, 1977 this subchapter would apply only to investments by boards of trustees of public employees' retirement systems of political subdivisions of the state and would not apply to the Arkansas State Highway Employees' Retirement System, the Arkansas Public Employees' Retirement System, the State Police Retirement System, and the Teacher Retirement System, since the investment provisions of chapter 3 of this title were intended to be the sole and exclusive method and procedure by which investments of the four named retirement systems may be made.

**Cross References.** Arkansas Local Police and Fire Retirement System, investments, § 24-10-402.

Interest on investment of retirement funds, § 24-4-209.

Investment of local pension and trust funds, § 24-9-201 et seq.

**Effective Dates.** Acts 1967, No. 70, § 3: Feb. 9, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that in order to permit the various retirement systems of this State to have a broad range of available sources of investment of retirement funds, the immediate passage of this Act is necessary to permit the investment of such funds in Certificates of Deposit in banks of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 381, § 3: Mar. 12, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that flexibility in the investments

available to the respective publicly-supported retirement systems in this State is essential to enable such retirement systems to obtain dependable income yields from investments; and that the immediate passage of this Act is necessary to enable the Boards of Trustees of the retirement systems to invest funds in subordinated debt securities of federally insured savings and loan associations in this State. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to maintain employee morale and a stable and improved retirement system commensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1997, No. 554, § 5: Mar. 17, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the fiscal soundness of the various retirement systems of cities and other political subdivisions of the state is vital to the operation of Arkansas' governments; that the proper fiscal management



of public retirement systems promotes the goal of good government and provides public employees with an incentive to perform efficiently and effectively; and that any delay in implementing a policy of sound fiscal management with regard to retirement systems of cities and other political subdivisions of the state could result in a financial disaster for any marginally financed retirement system in Arkansas. Therefore, an emergency is declared to exist and this act being

immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

#### **24-2-201. Permissible investments of political subdivision retirement funds.**

(a) The board of trustees of any public employee retirement system of any political subdivision of the State of Arkansas shall, from time to time, as funds are available for investment purposes, invest in obligations set out in this section.

(b) The boards of trustees of public employees retirement systems of political subdivisions of the state shall have the power to invest and reinvest the moneys in their respective funds and to hold, purchase, sell, assign, transfer, and dispose of any securities and investments held in the funds, except that the investments and reinvestments shall be limited to the following:

- (1) Direct general obligations of the United States Government;
- (2) Bonds, notes, debentures, or other obligations issued by an agency of the United States Government, the principal and interest of which are guaranteed in full by the United States Government;
- (3)(A) Direct general obligations of the State of Arkansas;
- (B) Capital notes issued pursuant to § 23-32-215 [repealed] by banks and trust companies organized or operated under the laws of this state and subordinated debt securities of savings and loan associations in this state whose deposits are secured by the Federal Savings and Loan Insurance Corporation;
- (C) Certificates of deposit of any bank in Arkansas if the bank is insured by the Federal Deposit Insurance Corporation;
- (4) Revenue bonds issued by the University of Arkansas and by the other respective state-supported institutions of higher learning;
- (5) Ad valorem tax bonds of counties issued under the authority of the Arkansas Constitution, Amendments 10, 17 [repealed], and 25 [repealed];
- (6) Ad valorem tax bonds of cities of the first and second class issued under the authority of the Arkansas Constitution, Amendments 10 and 13 [repealed];
- (7) Valid warrants of local school districts of the State of Arkansas, but the warrants may be purchased only from the local school district board and only during the fiscal year in which issued;

(8) Revolving loan bonds and revolving loan certificates of indebtedness held in the Revolving Loan Fund in the State Treasury under the jurisdiction of the State Board of Education;

(9) Bonds of local school districts, sometimes referred to as "commercial bonds", whereof a continuing ad valorem tax levy of a given number of mills on each dollar of the assessed valuation of all taxable real and personal property within the bounds of the district shall have been voted for the specific primary purpose of paying the principal of, and interest on, the bonds, as distinguished from the excess collections of taxes derived through levies made to pay other issues of bonds of the district;

(10) First lien serial coupon bonds of local industrial development corporations organized under the authority of the Arkansas Industrial Development Act, § 15-4-101 et seq., but the bonds may be purchased only from the State Board of Finance;

(11)(A)(i) Obligations consisting of notes, bonds, or debentures which are direct obligations of an industrial corporation, or a corporation engaged primarily in the production, transportation, distribution, or sale of electricity, gas, or water or the operation of telephone or telegraph systems, or any combination of them.

(ii) The obligor corporation shall be incorporated under the laws of the United States, any state, or the District of Columbia.

(iii) These obligations shall, at the time of purchase, be rated within the three (3) highest classifications by at least two (2) standard rating services.

(B)(i) Funds of the system may not be used in the purchase of common or preferred stocks, or of other equity capital, by whatever name called.

(ii) No such obligations as may be owned by the system may ever be exchanged for any stock or other equity capital;

(12)(A) Notes secured by:

(i) Mortgages on real estate, which are guaranteed as to payment of principal and interest either by the United States Government or an agency thereof; or

(ii) A corporation, approved by the Insurance Commissioner, which is licensed to do business in the State of Arkansas as an insurer.

(B)(i)(a) Notes or obligations securing loans to Arkansas businesses made by banks and savings and loan associations pursuant to the federal Small Business Act, only to the extent that both principal and interest are guaranteed by the United States Government.

(b) The applicant bank or savings and loan association shall be required to enter into an indemnity agreement, which meets the approval of the board of trustees, to pay off the investments, together with interest and any unpaid costs and expenses in connection therewith, in the event the United States Government refuses to honor its guarantee.

(ii) The board of trustees may enter into conventional agreements for the servicing of the loans and the administration of receipts therefrom.

(iii) Any servicing agreement may contain such reasonable and customary provisions as the board of trustees may deem advisable and as may be agreed upon.

**History.** Acts 1963, No. 509, §§ 1, 7; 1967, No. 70, § 1; 1975, No. 381, § 1; 1975, No. 839, § 1; 1977, No. 793, § 11; A.S.A. 1947, §§ 12-2530, 12-2532n, 12-2536; Acts 1993, No. 403, § 15.

**Publisher's Notes.** Former § 23-32-215 was repealed by Acts 1997, No. 89, § 3. For current provisions, see § 23-48-315.

**Amendments.** The 1993 amendment substituted "board of trustees" for "retirement board" throughout (b)(12)(B).

**U.S. Code.** The Small Business Act, referred to in this section, is codified as 15 U.S.C. § 631 et seq.

## 24-2-202. Procedure for purchase or sale of securities.

(a) All securities purchased or sold by the board of trustees shall be upon sealed offers after publication of notice of proposal to purchase or sell, except securities provided for in § 24-2-201(b)(1), (2), (7), (8), (10), (11), and (12).

(b)(1)(A) Not fewer than seven (7) days nor more than fourteen (14) days prior to the date set for the purchase of securities, the board shall cause a notice to be published by one (1) insertion, in one (1) or more newspapers of general circulation throughout the state and in such other newspapers or financial journals as to it may appear desirable.

(B) This notice shall request offers to sell such obligations to the system and state the approximate amount of funds proposed to be made available for the purpose and the time and place that the offers will be received.

(2) On the date and on and after the time so fixed, the board, or a duly designated subcommittee thereof, shall open, read aloud, tabulate, and compare all the offers received; then, or within twenty-four (24) hours after the date and time so fixed, the board shall purchase or contract for the purchase of such of the obligations as, in its opinion, will serve the best interest of the retirement system.

(3) All obligations of a particular type shall be purchased on the basis of the highest annual interest yield to the retirement system.

(4) The board may reject any or all offers received and may waive informalities.

(c) All obligations of a particular issue which are purchased by the board upon sealed offers shall be accompanied at the time of delivery and payment, by the opinion of recognized bond counsel acceptable to the board approving without qualification the validity of the issue of which the obligations are a part.

(d) Direct general obligations of the United States and obligations of instrumentalities thereof may be purchased from the issuers from their duly designated fiscal agents or in the open market either with or without giving prior notice by publication of intention to purchase, all as, in the opinion of the board, will serve the best interest of the system.



**History.** Acts 1963, No. 509, § 2;  
A.S.A. 1947, § 12-2531.

**24-2-203. First lien serial coupon bonds of local industrial development corporations.**

(a) Whenever mutually agreeable to the respective boards, the State Board of Finance may sell and the retirement systems may purchase first lien serial coupon bonds of local industrial development corporations.

(b) Payment under any sale and purchase agreement may be effected in the State Treasury by charging the proper retirement fund with the purchase price thereof and by delivery of the securities to the custodian of the system.

(c) In the event of default in payment of the principal of or interest on bonds of industrial development corporations, the State Board of Finance shall repurchase the obligations immediately after being called upon to do so by the system. The transaction may be effected in the State Treasury by crediting the retirement system fund with the purchase price thereof and by delivery of the securities to the custodian of securities for the State Board of Finance for credit of the par value thereof to the Securities Account.

(d) The amount of the accrued interest due upon any repurchase or original sale shall be charged or credited, as the case may be, to the Securities Reserve Fund.

(e) The sale and purchase price, and the resale and repurchase price, of first lien serial coupon bonds of industrial development corporations shall be the par value of those obligations, plus accrued interest.

**History.** Acts 1963, No. 509, § 3;  
A.S.A. 1947, § 12-2532.

**24-2-204. Default in payment of principal or interest.**

(a) In the event of default in payment of the principal of or interest on bonds or other obligations held in the respective retirement funds, if the issuer of the obligations is a state-supported institution of higher learning, a county, a municipal corporation, including boards, commissions, or other authorities thereof, or a school district, the Treasurer of State shall withhold the amount of the default from any moneys in the State Treasury derived from general revenues on hand to the credit of, or held for the benefit of, the issuer and credit that amount, by transfer, to the retirement fund holding the obligations.

(b)(1) The State Treasury fund from which any transfer may be made shall be charged with the amount of the transfer.

(2)(A) The Treasurer of State shall furnish notification of the transfer, in writing, to the disbursing officer of the fund from which the transfer shall have been made.

(B) Notification shall set forth the name of the issuer, the date, amount, and purpose of the charge.

(3) The Treasurer of State shall thereafter cancel and deliver the obligations so retired to the designated paying agent.

(c) No transfers may be made from moneys in any State Treasury fund which are derived from revenue either specifically or generally pledged to the payment of any issued and outstanding bonds.

**History.** Acts 1963, No. 509, § 4;  
A.S.A. 1947, § 12-2533.

#### **24-2-205. Purchase of obligations not cancellation — Trust.**

(a) All obligations purchased or received shall be held in trust for the use and benefit of the system, which trust shall be subject only to the right of the board of trustees to sell or otherwise dispose of the obligations as provided in the various plans.

(b) No purchase or receipt of obligations by a board of trustees shall ever be construed as a cancellation of the obligations so purchased or received.

**History.** Acts 1963, No. 509, § 5;  
A.S.A. 1947, § 12-2534.

#### **24-2-206. Jurisdiction and custodianship of funds — Interest.**

(a)(1) The various retirement system funds, as established in the State Treasury, are created and constituted trust funds.

(2) All assets of the various funds, both cash and securities, shall be under the exclusive jurisdiction of the respective boards of trustees and shall be held by the Treasurer of State as custodian, subject to the orders and direction of the boards of trustees.

(b) The interest received on all investments made from the trust funds shall be considered as trust fund income and shall be deposited in the State Treasury to the credit of the retirement system fund from which the investments were made.

**History.** Acts 1963, No. 509, § 6;  
A.S.A. 1947, § 12-2535.

#### **24-2-207. Assets and income for retirement systems.**

All assets and income of any retirement system of a city or other political subdivision of the State of Arkansas shall be held, invested, or disbursed for the exclusive purpose of providing for benefits, investment management, and administrative expenses and shall not be encumbered for or diverted to any other purposes.

**History.** Acts 1997, No. 554, § 1.

### SUBCHAPTER 3 — CORRECTION OF ERRONEOUS MEMBERSHIPS

#### SECTION.

- 24-2-301. Definitions.  
 24-2-302. Classification of members.  
 24-2-303. Erroneous enrollment before January 1, 1979.  
 24-2-304. Erroneous enrollment on or after January 1, 1979.

#### SECTION.

- 24-2-305. Effect of promotion of nonteacher school employee.  
 24-2-306. Erroneous enrollment because of concurrent membership.

**Effective Dates.** Acts 1973, No. 667, § 6: Apr. 10, 1973. Emergency clause provided: "It has been found and determined by the General Assembly that a number of individuals have been erroneously enrolled in the wrong State retirement system and that no statutory authority for correcting such erroneous enrollment exists. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 576, § 8: Mar. 26, 1979. Emergency clause provided: "It has been found and determined by the General Assembly that Act 667 of 1973 is unclear, that it has been interpreted in different ways, that it is creating unnecessary confusion and is causing hardships for members of the Public Employees Retirement System and the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 790, § 2: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that legal retirement status of certain employees of the Arkansas Rehabilitation Services and the Division of Rehabilitation Services for the Blind who have been enrolled in the Non Contributory Plan of the Public Employees' Retirement System is in doubt, that the time for enrolling employees of these agencies in the Public Employees' Retirement System expired January 1, 1985, and that these agencies wish to continue to enroll new employees in the Non Contributory Plan of the Public Employees' Retirement Sys-

tem. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 154, § 4: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the law providing for correction of erroneous enrollments in state retirement systems causes an undue hardship on some employees; that this Act is designed to alleviate that hardship by allowing the employee a choice. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 13, § 5: Feb. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the law providing for correction of erroneous enrollments in state retirement systems causes an undue hardship on some employees; that this act is designed to alleviate that hardship by allowing the employees a choice. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state govern-



ment makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being imme-

diately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

### **24-2-301. Definitions.**

As used in this subchapter, unless the context otherwise requires:

(1) "Eligible retirement system" means the retirement system in which the employee is eligible for membership;

(2) "Employer" means an employing state agency or an employing school district; and

(3) "Retirement system of record" means the system that holds an erroneous membership.

**History.** Acts 1973, No. 667, § 1; 1979, No. 576, § 1; A.S.A. 1947, § 12-2571.

### **24-2-302. Classification of members.**

Except as otherwise specifically provided in this subchapter, all employees of the State of Arkansas or any of its political subdivisions who are members or become members of a state retirement system shall be members of the retirement system indicated in this section as follows:

(1) All eligible employees of the Arkansas State Highway and Transportation Department shall be members of the Arkansas State Highway Employees' Retirement System;

(2) All eligible employees of the Department of Arkansas State Police shall be members of the State Police Retirement System;

(3) The following persons shall be members of the Arkansas Teacher Retirement System:

(A) Any person employed by a school for the purpose of giving instruction and whose employment requires state certification;

(B) Any other person employed by a school in a regular or special position, but specifically excluding employment as a janitor, bus driver, or cafeteria worker;

(C) Any person employed by any of the following organizations or agencies, except janitors, bus drivers, and cafeteria workers:

(i) Arkansas School for the Blind;

(ii) Arkansas School for the Deaf;

(iii) Arkansas Activities Association;

(iv) A local school board;

(v) Chief county school officers;

(vi) State Board of Education;

(vii) Regional educational cooperatives;

(viii) The state surplus property program; and

(ix) Arkansas Teacher Retirement System;

(D) Any person employed in a position requiring professional training or certification with an area vocational-technical school or employed by the Arkansas Educational Television Commission, except that employees of area vocational-technical schools and the Department of Workforce Education who have elected to participate in an alternate retirement plan established by §§ 24-7-901 — 24-7-908 shall be active members of the alternate retirement plan;

(E)(i) Any person employed in a position requiring professional training or certification with the Arkansas Rehabilitation Services of the Department of Workforce Education, the Division of State Services for the Blind of the Department of Human Services, or the Division of Youth Services of the Department of Human Services except those employees who have elected coverage under §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-214, 24-3-301 — 24-3-303, and 24-3-401 — 24-3-414.

(ii) Membership of employees of the Arkansas Rehabilitation Services of the Department of Workforce Education and the Division of State Services for the Blind of the Department of Human Services shall be subject to the following conditions:

(a) Those employees who were employed before January 1, 1985, and who were members of the Arkansas Teacher Retirement System on that date shall continue to be members of the Arkansas Teacher Retirement System, except that in the event the time limit for those employees to change to the noncontributory plan of the Arkansas Public Employees' Retirement System under § 24-3-214 is extended beyond January 1, 1985, those employees shall have the maximum time allowed by law to elect to make the change;

(b) Those employees who were employed before January 1, 1985, and are members of the noncontributory plan of the Arkansas Public Employees' Retirement System on that date shall continue to be members of the Arkansas Public Employees' Retirement System; and

(c) Persons whose initial employment by either the Arkansas Rehabilitation Services of the Department of Workforce Education or the Division of State Services for the Blind of the Department of Human Services is on or after January 1, 1985, shall be members of the noncontributory plan of the Arkansas Public Employees' Retirement System; and

(4) All eligible employees of the State of Arkansas or any of its political subdivisions except those who are members of another legally established state retirement plan shall be members of the Arkansas Public Employees' Retirement System.

**History.** Acts 1973, No. 667, § 2; 1979, No. 576, § 2; 1985, No. 790, § 1; A.S.A. 1947, § 12-2572; Acts 1999, No. 325, § 1.

**Publisher's Notes.** Acts 1993, No. 574, § 1, effective July 1, 1993, transferred the Division of Rehabilitation Services of the Department of Human Services to the

Division of Vocational and Technical Education of the Department of Education, and renamed the division as the Arkansas Rehabilitation Services.

Acts 1997, No. 803, effective March 25, 1997, created the Department of Workforce Education, abolished the Divi-

sion of Vocational and Technical Education of the Department of Education, and transferred the Arkansas Rehabilitation Services to the Department of Workforce Education.

**Amendments.** The 1999 amendment

deleted “or are eligible for membership in” following “who are members of” in (4).

**Cross References.** Conversion from contributory to noncontributory plan, § 24-3-215.

### **24-2-303. Erroneous enrollment before January 1, 1979.**

(a) Any employee who was erroneously enrolled in a state retirement system before January 1, 1979, and whose contributions have not been refunded prior to March 26, 1979, shall continue to be a member of the retirement system of record.

(b) The member shall receive service credit for all paid membership service in the retirement system, shall be entitled to any free service which was credited to him prior to March 26, 1979, or which is creditable to him under existing laws, and shall also be entitled to reciprocal service credits as provided by §§ 24-2-401 — 24-2-405.

**History.** Acts 1973, No. 667, § 3; 1979, No. 576, § 3; A.S.A. 1947, § 12-2573.

### **24-2-304. Erroneous enrollment on or after January 1, 1979.**

(a)(1) When it is discovered by an employee, employer, or a state retirement system that an employee became erroneously enrolled in a state retirement system on or after January 1, 1979, the employee may elect to remain a member of the system of record or may become a member of the eligible retirement system.

(2) Subsections (b)-(d) of this section shall apply if the member chooses to become a member of the eligible retirement system.

(b) The retirement system of record shall refund to the employer all contributions, both employee and employer, that were made in behalf of the employee in question.

(c)(1) The employer shall retain the contributions of both the employee and the employer that are refunded under subsection (b) of this section until the member is enrolled in the eligible retirement system.

(2) Upon receipt of the refunded contributions, the employer shall file with the eligible retirement system an application for membership by the employee and a history of covered employment and wages, including service refunded by the retirement system of record.

(d)(1) The eligible retirement system shall furnish to both the employee and the employer a statement of the amount of contributions necessary to establish service credit in the eligible retirement system for the service refunded by the retirement system of record.

(2) In computing the cost of that service, the eligible retirement system shall include both employee and employer contribution rates in its computation.

(3) In paying the cost of establishing credit for the service in the eligible retirement system, the employer shall first use the employee refund from the retirement system of record and then as much of the



employer refund as may be necessary. However, if all of the employer refund is not required to establish service credit, the remaining amount shall be paid into the General Education Fund.

(4) In the event the cost of establishing the service credit is in excess of both the employee and the employer contributions refunded by the retirement system of record, the excess amount shall be paid by the employee.

**History.** Acts 1973, No. 667, § 4; 1979, No. 576, § 4; A.S.A. 1947, § 12-2574; Acts 1989, No. 154, § 1; 1991, No. 13, § 1.

**Publisher's Notes.** Acts 1979, No. 576, § 5, provided that if, on March 26, 1979, the retirement system of record had refunded the contributions of a member who was erroneously enrolled, but service

credit had not yet been established in the eligible retirement system, the service credit was to be granted by the eligible retirement system as provided by this subchapter. Otherwise, all proceedings to correct memberships of employees who were erroneously enrolled before January 1, 1979 were cancelled.

### **24-2-305. Effect of promotion of nonteacher school employee.**

Other provisions of this subchapter to the contrary notwithstanding, a school janitor, bus driver, or cafeteria worker who is enrolled in one (1) of those positions as a member of the Arkansas Public Employees' Retirement System and later is promoted to a position as school maintenance worker or supervisor, as bus mechanic or as transportation supervisor, or as cafeteria manager, respectively, shall continue to be a member of the Arkansas Public Employees' Retirement System as long as he is employed in one (1) of those respective capacities.

**History.** Acts 1979, No. 576, § 6; A.S.A. 1947, § 12-2574.1.

### **24-2-306. Erroneous enrollment because of concurrent membership.**

Any member of the Arkansas Public Employees' Retirement System who is erroneously enrolled in the Arkansas Public Employees' Retirement System because of concurrent enrollment in another state-funded or state-authorized retirement system, other than federal social security, due to separate and distinct service for a public school or a municipality, may elect to remain a member of the Arkansas Public Employees' Retirement System subject to the following conditions:

(1) The other system will allow the member to forfeit the concurrent service by refunding all employer and employee contributions respectively; and

(2) The member notifies both the Arkansas Public Employees' Retirement System and the other system that the member will remain in the Arkansas Public Employees' Retirement System and forfeit service and accrued benefits in the other system.

**History.** Acts 1999, No. 325, § 2.

SUBCHAPTER 4 — RECIPROCAL SERVICE CREDITS

SECTION.

- 24-2-401. Definitions.
- 24-2-402. Deferred annuity — Eligibility.
- 24-2-403. Date of annuity payment.
- 24-2-404. Disbursement of annuities.

SECTION.

- 24-2-405. Disability benefits.
- 24-2-406. [Repealed.]
- 24-2-407. Benefit enhancements — Restrictions.

**A.C.R.C. Notes.** Acts 1991, No. 497, § 1, provided: “(a) On or after July 1, 1991, until December 31, 1991, an active member of Arkansas Public Employees’ Retirement System may contract with the board of the Teacher Retirement System to receive credited service for periods to which the employee would have otherwise qualified for service rendered prior to July 1, 1984, during the employ of a preceding state employer upon his paying to the reciprocal system as defined in A.C.A. § 24-2-401 the prescribed contribution plus interest from the date of the previous service to the date of repayment.

“(b) For purposes of this act, ‘prescribed contribution’ means the contribution in effect to purchase credited service with the reciprocal system at the time period of service rendered with the preceding employer prior to July 1, 1984.”

References to “this subchapter” in §§ 24-2-401 — 24-2-405 may not apply to § 24-2-407 which was enacted subsequently.

**Effective Dates.** Acts 1965, No. 488, § 9: July 1, 1975. Emergency clause provided: “It is hereby found and determined by the General Assembly that there is urgent need to clarify the present law relating to the reciprocal service credits between the various state supported retirement systems; that under the present reciprocal service law certain members of the various state supported retirement systems are not eligible to establish reciprocal service agreements. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of public peace, health, and safety, shall be in full force and effect from and after July 1, 1975.”

Acts 1969, No. 81, § 5: Feb. 21, 1969. Emergency clause provided: “It has been found and is hereby declared by the General Assembly that many public employees are being denied the services of com-

petent help on an extra-help or part-time basis and that retired public employees are being deprived of compensation as an extra-help or part-time employer under existing laws; and only by the immediate operation of this Act may these conditions be alleviated. Therefore an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force from and after its passage and approval.”

Acts 1971, No. 579, § 5: Apr. 6, 1971. Emergency clause provided: “It is hereby found and determined by the General Assembly that members of the reciprocal retirement system should be entitled to disability retirement benefits; that present provisions under the reciprocal retirement system do not provide for disability retirement benefits; and, that the immediate passage of this Act is necessary to correct this situation; therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1973, No. 586, § 11: became law without Governor’s signature, Apr. 3, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that provisions of this act clarify coverage, service, credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and, in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1975, No. 611, § 9: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is urgent need to clarify the present law relating to the reciprocal service credits between the various state supported retirement systems; that under the present reciprocal service law certain members of the various state supported retirement systems are not eligible to establish reciprocal service agreements; Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of public peace, health and safety, shall be in full force and effect from and after July 1, 1975."

Acts 1977, No. 663, § 8: Mar. 23, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees' Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 127, § 3: Feb 13, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly, that there is a need to prevent loss of benefits for in-service death in connection with reciprocity between state supported retirement systems and that the immediate effectiveness of this Act is essential and delay could work irreparable harm upon system members. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 493, § 3: Mar. 21, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that some public employees have been denied participation in public retirement systems through no fault of their own and should be

granted an opportunity to participate. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 821, § 6: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act change the rate of contributions, and benefits under the Arkansas State Highway Employees Retirement System; and, in order to enable persons to receive proper benefits thereunder without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 483, § 5: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that benefits now being paid to retired members of the State Police Retirement System are not consistent with benefits being paid to retired members of other State supported retirement plans and, therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in force and effect on and after July 1, 1981."

Acts 1983, No. 679, § 4: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the retirement benefits payable under reciprocity by preceding systems are inadequate and unfair to certain retirees having service in more than one state retirement system. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1987, No. 357, § 7: Mar. 23, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is in the best interest of the public health, welfare and safety that members in the public safety category of the Public Employees Retirement System



should be permitted to transfer to another employment protecting the public health and safety and that current retirement laws discourage said transfers. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 949, § 7: Apr. 6, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the Arkansas Judicial Retirement System is not a reciprocal system with other state supported retirement systems; that this creates an inequitable situation for public officials are members of the Judicial Retirement System and who later become members of another state supported retirement system; and that it is necessary to change the laws of Arkansas to correct this inequity. Therefore, in order to promote equity between the public retirement systems of Arkansas, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 485, § 12: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that public safety members for the Public Employees' Retirement System earn credit at one and one-half times the normal rate of service credit; that the dollar cost to the System of this service credit is too expensive and is escalating with the addition of other groups of employees as public safety members; and that it is necessary to restrain the future use and costs to the System of this service credit and to implement this act at the beginning of the States' fiscal year. Therefore, in order to reduce the financial burden on the Public Employees Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become

effective July 1, 1997."

Acts 1997, No. 857, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the alternate retirement plans for the state colleges and universities and the state's vocational-technical schools are not reciprocal systems with other state supported retirement systems; that this creates an inequitable situation for the educators and administrators who are members of these alternative retirement systems and who later become members of another state supported retirement system; and that it is necessary to change the laws of Arkansas to correct this inequity and have it effective at the beginning of the state's fiscal year. Therefore, in order to promote equity between the public retirement systems of Arkansas and promote sound fiscal administration, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 927, § 8: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the current laws on the reciprocity of retirement systems does cover deferred retirement option accounts; that the retention of experienced employees, especially in skilled labor positions and highly technical fields, is beneficial to the Arkansas state government and with the hiring of employees at younger ages, more qualified and experienced employees are reaching retirement eligibility earlier in their careers; and that immediate passage of the act is essential to the efficient administration of state government and implementation of the provisions of this act is necessary to begin at the start of the State's fiscal year. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

**24-2-401. Definitions.**

As used in this subchapter, unless the context otherwise requires:

(1) "Deferred retirement option plan" means an option for retirement under a reciprocal system whereby the retirement system members, in lieu of terminating employment, can continue with employment with covered employers and can accept a service retirement benefit pursuant to deferred retirement option plan provisions in § 24-7-1301 et seq. for the Arkansas Teacher Retirement System or for any other deferred retirement option plan which might be created by, or authorized for creation by, law under a reciprocal system;

(2) "Public safety service covered by the Arkansas Public Employees' Retirement System" means service as a public safety member as defined in § 24-3-102(14) and by a person who was employed prior to July 1, 1997;

(3) "Reciprocal system" means:

(A) The Arkansas Teacher Retirement System in operation June 30, 1957, and continued by §§ 24-7-202 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-606, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716;

(B) The Arkansas State Highway Employees' Retirement System, established by § 24-5-103;

(C) The Arkansas Public Employees' Retirement System, established by § 24-4-103;

(D) The State Police Retirement System, established by § 24-6-203;

(E) The Arkansas Judicial Retirement System, established by § 24-8-201 et seq.;

(F) An alternate retirement plan for:

(i) A college, university, or the Department of Higher Education provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the Department of Workforce Education provided for under § 24-7-901 et seq.; or

(G) The Arkansas Local Police and Fire Retirement System provided for under § 24-10-101 et seq.; and

(4) "State employer" means:

(A) The public employer whose employees are covered under:

(i) The Arkansas Teacher Retirement System;

(ii) The Arkansas State Highway Employees' Retirement System;

(iii) The Arkansas Public Employees' Retirement System; or

(iv) The State Police Retirement System;

(B) The public employer whose employees are chancery or circuit court judges, judges of the Arkansas Court of Appeals, and justices of the Arkansas Supreme Court, whether elected or appointed to office, covered under the Arkansas Judicial Retirement System; or

(C) A public employer who is:

(i) A college, university, or the Department of Higher Education whose employees are covered by an alternate retirement plan provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the Department of Workforce Education whose employees are covered by an alternate retirement plan provided for under § 24-7-901 et seq.

**History.** Acts 1965, No. 488, § 1; 1975, No. 611, § 1; 1981, No. 483, § 2; A.S.A. 1947, § 12-2537; Acts 1987, No. 357, § 2; 1995, No. 949, § 1; 1997, No. 485, § 1; 1997, No. 857, § 1; 1997, No. 927, § 1; 1999, No. 537, § 1.

**Amendments.** The 1995 amendment substituted “Arkansas Teacher Retirement System” for “Teacher Retirement System of Arkansas” in former (1) and (2); added “or the Arkansas Judicial Retirement System, established by § 24-8-201 et seq.” in former (1); added the language beginning “or the public employer whose employees are chancery or circuit court

judges” in former (2); and added “(5)” at the end in former (3).

The 1997 amendment by No. 485 added “and by a person who was employed prior to July 1, 1997” in former (3).

The 1997 amendment by No. 857 added the language following “§ 24-8-201 et seq.” to the end of former (1); added the language following “Judicial Retirement System” to the end of former (2); and made minor stylistic changes.

The 1997 amendment by No. 927 added former (4).

The 1999 amendment inserted present (3)(G).

## 24-2-402. Deferred annuity — Eligibility.

If a member of a reciprocal system left or leaves a position covered by a reciprocal system, if an employee in a position covered by a reciprocal system left the employ of a state employer before the latter position was covered by a reciprocal system, or if an employee in a position later covered by a reciprocal system leaves that position before it is covered by a reciprocal system, which in this section in each case is called the “preceding system”, and if that person entered or enters a position covered by a reciprocal system, which in this section is called the “succeeding system”, and if the person is a member of the succeeding system after July 1, 1975, then he shall be entitled to a deferred annuity payable by the preceding system subject to the following conditions:

(1) He has credited service acquired in the employ of the preceding state employer;

(2)(A) He does not withdraw his accumulated contributions from the preceding reciprocal system, or if he has withdrawn his accumulated contributions, he deposits with the preceding reciprocal system the amount he withdrew, together with interest from the date of withdrawal to the date of repayment at the rate in effect for the preceding reciprocal system, but that deposit must be made while he is an active member of a reciprocal system.

(B) In addition to the forfeited credited service, the active member of a reciprocal system shall receive credit for his previous employment with a public employer upon his paying the prescribed employee and employer contributions based upon the rate in effect during the previous employment, together with regular interest from the dates for the previous service to the date of repayment.

(C) The provisions for determining a year of service credit shall be the prevailing regulations of each reciprocal system;



(3) He qualifies for age and service retirement in the succeeding reciprocal system using his credited service in force with the preceding reciprocal system plus his credited service acquired in the employ of succeeding state employers to meet the minimum service requirements of the succeeding systems;

(4)(A) His annuity payable by the preceding reciprocal system shall be upon the basis of the annuity formula of the preceding reciprocal system, exclusive of any minimum amount at the time the person begins to receive monthly retirement benefits from that system.

(B) The final average compensation to be used to determine monthly benefits payable to that person shall be that of the reciprocal system which furnishes the highest final average salary at the time of retirement, but each reciprocal system shall use the method of computing final average salary stipulated by its law, and compensation in the Arkansas Judicial Retirement System shall not be used to determine final average compensation.

(C) Any person retiring on or after July 1, 1982, with credited service in more than one (1) reciprocal system shall have his benefits recomputed based on the provisions of this section;

(5)(A) It is the expressed intention of this subdivision (5) to provide the same death-in-service benefits that would have been payable had the member died while an active member of a reciprocal retirement system.

(B) A member who dies in service while a member of one (1) reciprocal system shall be considered as currently employed by all systems in which the member retains credited service.

(C) If a member has accrued credited service under the provisions of this subchapter but dies before retirement or before becoming eligible to retire, then the benefits payable shall be those provided by the reciprocal retirement system named in this subchapter, with each system being responsible for the payment of the death-in-service benefits provided by the applicable provisions of its retirement laws.

(D) If death-in-service benefits are payable by more than one (1) reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more, as a percentage of the deceased member's final pay or as a minimum dollar amount, than the largest amount payable by any single reciprocal system.

(E) Each reciprocal system that has a minimum benefit provision in its plan shall pay only a proportionate share of that minimum amount based on the ratio of service in that system to the total service in all reciprocal systems.

(F) If the reciprocal system is an alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq., death-in-service benefits shall be contingent on provision of that benefit having been provided by the alternate retirement plan and having been selected by the member as a benefit;

(6) Both service in the Arkansas Public Employees' Retirement System as a member of the General Assembly and service in another

reciprocal system during the same period of time may be counted to meet the service requirements for benefits from the reciprocal system subject to the following:

(A) The benefit payable by a reciprocal system will be based on the credited service in that system and the final average compensation under that system. However, nothing in this subdivision (6)(A) shall diminish the General Assembly member's right to a benefit for which he is qualified under the provisions of § 24-4-706; and

(B) If a member has less than five (5) years of service credited in a reciprocal system, then "final average compensation" means the monthly average of pay to him during his total years of service in that system;

(7)(A) If the preceding or succeeding reciprocal system is the Arkansas Judicial Retirement System and the member's benefits are determined under § 24-8-201 et seq., the benefit payable by the Arkansas Judicial Retirement System shall be determined by multiplying one-half ( $\frac{1}{2}$ ) of the annual salary payable to the last judicial office held by the following fraction:

(i) The numerator shall be the number of the actual years of service credited in the Arkansas Judicial Retirement System as a justice of the Arkansas Supreme Court or judge of the circuit or chancery courts or the Arkansas Court of Appeals; and

(ii) The denominator shall be fourteen (14) years.

(B) In no instance shall the benefit payable by the Arkansas Judicial Retirement System exceed one-half ( $\frac{1}{2}$ ) of the annual salary payable to the last judicial office held;

(8)(A)(i) If the preceding or succeeding reciprocal system offers a deferred retirement option plan for its members, both service in the preceding and the succeeding reciprocal system may be counted to meet the minimum service credit requirements for benefits under a system's deferred retirement option plan.

(ii) The benefit payable by the preceding reciprocal system shall be based on the annuity formula of the preceding reciprocal system, exclusive of any minimum amount at the time the person begins to receive monthly retirement benefits from that system under its deferred retirement option provisions.

(iii) The final average compensation to be used to determine monthly benefits payable to that person shall be that of the reciprocal system which furnishes the highest final average salary at the time of retirement, but each reciprocal system shall use the method of computing final average salary stipulated by its law, and compensation in the Arkansas Judicial Retirement System shall not be used to determine final average compensation.

(iv) Any interest credited to the deferred retirement account will be paid to the member's account under the deferred retirement option benefit program in effect for that system.

(B) The boards of trustees of each preceding or succeeding system shall promulgate rules and regulations as are necessary to coordinate

their benefits with any system providing a deferred retirement option plan; and

(9) If the preceding or succeeding reciprocal system is an alternate retirement plan for a college, university or the Department of Higher Education provided for under § 24-7-801 et seq., or for a vocational-technical school or the Department of Workforce Education provided for under § 24-7-901 et seq., the benefits payable shall be in accordance with terms specified in the written alternate retirement plan document for purchasing the insurance policies or annuity contracts, both fixed and variable in nature, for the participants.

**History.** Acts 1965, No. 488, § 2; 1967, No. 310, § 1; 1971, No. 579, §§ 1, 2; 1975, No. 611, § 2; 1977, No. 663, § 5; 1979, No. 127, § 1; 1979, No. 493, § 1; 1979, No. 821, § 4; 1983, No. 679, §§ 1, 2; A.S.A. 1947, § 12-2538; Acts 1987, No. 357, § 3; 1987, No. 737, § 1; 1991, No. 381, § 1; 1995, No. 949, § 2; 1997, No. 485, § 2; 1997, No. 857, § 2; 1997, No. 927, § 2; 1999, No. 537, §§ 2, 5.

**Amendments.** The 1997 amendment by No. 485 inserted "who was employed prior to July 1, 1997 and" in (6).

The 1997 amendment by No. 857 in-

serted "or in a position ... § 24-7-901, et seq." in (4)(B); and added (5)(F) and (9).

The 1997 amendment by No. 927 added (9).

The 1999 amendment repealed the version of this section as amended by Acts 1997, No. 857; added (5)(F); deleted former (6) and redesignated the remaining subdivisions accordingly; and made a related change in (6)(A); inserted "and the member's benefits are determined under § 24-8-201 et seq." in present (7)(A); and added (9); and made stylistic changes.

### **24-2-403. Date of annuity payment.**

(a) The date a member's annuity, if any, becomes payable by each reciprocal system shall be determined by those provisions in force for each reciprocal system.

(b) In no case shall any annuity become payable nor be paid prior to the date the member retires from, and ceases to be, in the employ of a state employer.

**History.** Acts 1965, No. 488, § 4; 1975, No. 611, § 4; A.S.A. 1947, § 12-2540.

### **24-2-404. Disbursement of annuities.**

(a) The boards of trustees of the reciprocal systems may enter into an agreement whereby the reciprocal system from which a member retires shall be the disbursing system for his annuities payable, as provided in this subchapter, by the other reciprocal systems.

(b) The agreement shall provide, but shall not be limited to, the manner and frequency with which the disbursing system shall be reimbursed for the annuities payable by the other reciprocal systems.

(c) Except for provisions of this section regarding the deferred retirement option plan under § 24-7-1301 et seq. for the Arkansas Teacher Retirement System, the provisions of this section shall not apply to retirants in the Arkansas Teacher Retirement System.



**History.** Acts 1965, No. 488, § 5; 1967, No. 310, § 2; 1969, No. 81, §§ 2, 3; 1973, No. 586, § 7; 1975, No. 611, § 5; A.S.A. 1947, § 12-2541; Acts 1997, No. 927, § 3.

**Amendments.** The 1997 amendment added "Except for provisions of this section ... for the Teacher Retirement System, the" at the beginning of (c).

### 24-2-405. Disability benefits.

(a) A member of a reciprocal system with ten (10) or more years of credited service in two (2) or more reciprocal systems shall be eligible to apply for disability benefits from each reciprocal system in which he has credited service.

(b) Each reciprocal system shall make the determination under its respective rules and regulations as to whether the member is eligible for disability benefits.

(c) The member shall be eligible for a refund of his accumulated contributions plus interest, if any, from any reciprocal system in which he does not qualify for disability benefits. This refund shall not alter his eligibility for benefits from any other reciprocal system.

**History.** Acts 1965, No. 488, § 3; 1971, No. 579, § 3; 1975, No. 611, § 3; A.S.A. 1947, § 12-2539.

### 24-2-406. [Repealed.]

**A.C.R.C. Notes.** Acts 1987, No. 525, § 1, repealed "Section 5 of Act 488 of 1965, as amended [Ark. Stat. 12-2541.1]." It is deemed that this repeal should refer to § 6 of the 1965 act, which was compiled as A.S.A. 1947, § 12-2541.1 and subsequently codified as this section.

**Publisher's Notes.** This section, concerning resumption of employment, was repealed by Acts 1987, No. 525, § 1. The section was derived from Acts 1965, No. 488, § 6, as added by 1975, No. 611, § 6; 1981, No. 859, § 13; A.S.A. 1947, § 12-2541.1.

### 24-2-407. Benefit enhancements — Restrictions.

(a) No benefit enhancement provided for by this subchapter shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by this subchapter shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 927, § 4.

**A.C.R.C.** References to "this subchapter" in §§ 24-2-401 — 24-2-405 may not

apply to this section which was enacted subsequently.

**SUBCHAPTER 5 — MILITARY SERVICE CREDIT**

## SECTION.

24-2-501. Free credited service.

24-2-502. Purchased credited service.

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**Effective Dates.** Acts 1987, No. 92, § 4: Feb 27, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that the law on free military service credit is unclear, that a clarification of Act 634 of 1973 is needed and therefore an emergency is declared to exist, and this Act being necessary for the immediate preservation of the public health, welfare, and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 218, § 4: Mar. 13, 1987.

Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that the law on free military service credit is unclear, that a clarification of Act 634 of 1973 is needed and therefore an emergency is declared to exist, and this Act being necessary for the immediate preservation of the public health, welfare and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1053, § 28: July 1, 1998.

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**24-2-501. Free credited service.**

(a)(1) Any member of the Arkansas Judicial Retirement System established by § 24-8-201 et seq. shall be entitled to receive free credited service in the system for a period of not to exceed two (2) years for service rendered by him in the armed forces of the United States during World War I, World War II, the Korean Conflict, or the Vietnam Conflict.

(2) Notwithstanding § 24-2-502 or any other law to the contrary, any member of the system may also purchase credited service in the system not to exceed five (5) years for service rendered by him in the armed forces of the United States and to be purchased in accordance with the procedures in § 24-2-502.

(b) Any person entitled to receive free credited service in the system under the provisions of this section shall be granted credited service under the system for service in the armed forces during World War I, World War II, the Korean Conflict, or the Vietnam Conflict upon:

(1) Making application therefor to the Board of Trustees of the Arkansas Judicial Retirement System; and

(2) Providing proof satisfactory to the board of that person's military service.

(c) The provisions of this section shall be supplemental to any other laws relating to state-supported retirement systems in this state. Nothing in this section shall be construed to diminish the right of any member of a state-supported retirement system to obtain credited service in the system for military service.

(d) This section shall not apply to the Tier Two Actual Judicial Service Benefit Plan of the Arkansas Judicial Retirement System provided for in § 24-8-701 et seq.

**History.** Acts 1973, No. 634, §§ 1-3; A.S.A. 1947, §§ 12-2524.1 — 12-2524.3; Acts 1987, No. 92, §§ 1, 2; 1987, No. 218, §§ 1, 2; 1997, No. 1185, § 1; 1999, No. 399, § 2.

**Amendments.** The 1997 amendment added the last sentence in (a).

The 1999 amendment added (d); redes-

igned (a) as (a)(1) and (a)(2); subdivided (b); substituted "system" for "American Judicial Retirement System" in (a)(2); and made stylistic changes.

**Cross References.** Retirement of judges and court employees, § 24-8-201 et seq.

## 24-2-502. Purchased credited service.

(a) Any person who is or was a member of a state-supported retirement system in this state and who was not receiving benefits under the system on July 9, 1975, shall be entitled to purchase credited service in the system for a period not to exceed five (5) years for service rendered by the member in the armed forces of the United States prior to the member's employment in a position covered by a state-supported retirement system, but only if the person:

- (1) Has five (5) years of actual service with the retirement system;
- (2) Received an honorable discharge from the armed forces;
- (3) Is not receiving federal military service retirement pay based upon nineteen (19) or more years of active duty, but disability federal retirement pay shall not disqualify a member from purchasing credit; and

(4)(A) For the first three (3) years of credited service, contributes to the members' deposit account a sum of money equal to the amount he would have contributed to the account had he been a member during his term of military service. This amount shall be based upon his monthly contributions at the time he first became a member of the retirement system and interest thereon at the rate of six percent (6%), together with an amount equal to the employer's matching contribution and interest thereon at the rate of six percent (6%), which interest shall commence January 1, 1976, or six (6) months after eligibility, whichever is later; and

(B) For the fourth and fifth year of credited service, contributes to the members' deposit account a sum of money equal to the amount he would have contributed to the account had he been a member during his term of military service. This amount shall be based upon:

(i) His salary at the time he first became a member of the retirement system;

(ii) The employer's contribution in effect at the time he first became eligible to purchase the military service; and

(iii) Interest thereon on both the employee's and employer's contributions at the rate of six percent (6%), which interest shall commence January 1, 1976, or six (6) months after eligibility, whichever is later.

(b) The benefit program to be applicable to the credited service for members of the Arkansas Public Employees' Retirement System or the State Police Retirement System shall be:

(1) The benefit program of §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-214, 24-3-301 — 24-3-303, and 24-3-401, 24-3-402, 24-3-404 —



24-3-406, 24-3-408, 24-3-409, and 24-3-414 if the member is not making regular member contributions to the system and if he paid no employee contribution to purchase the military service; or

(2) The benefit program based on §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-203, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606 for members of the Arkansas Public Employees' Retirement System or the benefit program based on §§ 24-6-201 — 24-6-217, 24-6-222, and 24-6-223 for members of the State Police Retirement System if the member is making regular member contributions to the system.

(c) The provisions of this section shall be supplemental to any other laws relating to state-supported retirement systems in this state. Nothing in this section shall be construed to repeal or modify any existing provisions of any state-supported retirement system law providing for credited service in the system for military service, nor to diminish the right of any member of a state-supported retirement system to obtain credited service in the system for military service under the provisions of existing laws; but in no event shall any member of a state-supported retirement system be entitled to or receive in excess of five (5) years of credited service for military service rendered by the member. No member shall be eligible for credited military service in more than one (1) state-supported retirement system.

(d) When the applicant can obtain military service credit under this section and also under other laws relating to state-supported retirement systems in this state, then service credit shall be granted under the provisions of the laws in chronological order beginning with the earliest law; however, the laws may not be used to allow duplicate service credit.

**History.** Acts 1975, No. 573, §§ 1-3; 1985, No. 938, § 8; A.S.A. 1947, §§ 12-2524.4 — 12-2524.6; Acts 1993, No. 1098, § 1; 1995, No. 611, § 1; 1997, No. 1053, § 26.

**Amendments.** The 1993 amendment substituted "five (5) years" for "three (3) years" in the introductory paragraph in (a); rewrote (a)(4); and made minor punctuation and capitalization changes.

The 1995 amendment redesignated

former (a)(4) as (a)(4)(A), redesignating former (a)(4)(A)-(C) as (a)(4)(B)(i)-(iii); added the introductory paragraph in (a)(4)(B); added "For the first three (3) years of credited service" in the first sentence in (a)(4)(A); and added the language beginning "his monthly contributions" in the second sentence in (a)(4)(A).

The 1997 amendment substituted "five (5) years of actual service" for "ten (10) years of credited service" in (a)(1).

## CHAPTER 3

### UNIFORM BENEFITS — FINANCING, ACCOUNTING, AND REPORTING STANDARDS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. BENEFIT PROVISIONS.
3. CREDITED SERVICE.
4. INVESTMENTS.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, 24-3-414, and 24-3-417 — 24-3-426 may not apply to §§ 24-3-106, 24-3-215 — 24-3-218, 24-3-304, and 24-3-415 which were enacted subsequently.

**Publisher’s Notes.** Acts 1985, No. 412, § 8, provided that it was the intent of that act to amend only the sections of this chapter which were specifically mentioned in that act and that the remainder of the chapter would remain in full force and effect.

RESEARCH REFERENCES

**Am. Jur.** 60 Am. Jur. 2d, Pensions, § 39 et seq.  
**C.J.S.** 67 C.J.S., Officers, § 243 et seq.

70 C.J.S., Pensions, § 1 et seq.  
81A C.J.S., States, § 112 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.  
24-3-101. Purpose.  
24-3-102. Definitions.  
24-3-103. Financial objectives and actuarial valuation.  
24-3-104. Reports.  
24-3-105. Tax exemptions.

SECTION.  
24-3-106. Determination of benefits for wildlife officers — Responsibility for additional costs.  
24-3-107. [Repealed.]

**Effective Dates.** Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to maintain employee morale and a stable and improved retirement system commensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977.”  
Acts 1979, No. 650, § 17: July 1, 1979. Emergency clause provided: “It is hereby found and determined by the General Assembly that various provisions of Act 793 need further clarification in order for their meaning to be comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the

immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1979.”  
Acts 1985, No. 271, § 5: July 1, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that the Public Employees Retirement System law needs to be amended to allow those members who have thirty (30) or more years of actual service credit to retire from such System regardless of age. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985.”  
Acts 1985, No. 412, § 9: Mar. 19, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that the immediate amendment of investment policies applicable to all Arkansas public employee retirement systems is essential to foster economic growth and stability of Arkansas while maintaining state employee morale through stable and improved retirement

systems. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect after its passage and approval."

Acts 1987, No. 732, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Public Employees Retirement System is actuarially sound and the cessation of the State Division's employer contributions would not impair the financial stability of the System; and that an emergency now exists that threatens the continued effectiveness of state funded programs; and the redirection of the State Division's contribution could be used to offset this current fiscal situation. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 718, § 4: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the effectiveness of this Act on July 1, 1989 is essential to the sound funding of the Teacher Retirement System and the Public Employees Retirement System; that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 431, § 6: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the effectiveness of this act on July 1, 1991, is essential to the sound funding of the Teacher Retirement System and the Public Employees' Retirement System; that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being neces-

sary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 845, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the effectiveness of this Act on July 1, 1991 is essential to the operation of the Arkansas Public Employees' Retirement System and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1994 (2nd Ex. Sess.), No. 52, § 5: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the General Assembly that those provisions of the Arkansas Code which require divestment of state retirement funds in companies engaged in business in or with South Africa no longer serve any useful purpose and probably have a detrimental effect on the various state supported retirement systems and should be repealed immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 299, § 28: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."



Acts 1997, No. 485, § 12: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that public safety members for the Public Employees' Retirement System earn credit at one and one-half times the normal rate of service credit; that the dollar cost to the System of this service credit is too expensive and is escalating with the addition of other groups of employees as public safety members; and that it is necessary to restrain the future use and costs to the System of this service credit and to implement this act at the beginning of the States' fiscal year. Therefore, in order to reduce the financial burden on the Public Employees Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 1137, § 9: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the Arkansas Public Employees' Retirement System and the Teacher Retirement System were created to benefit the public employees and the employees of the public educational institutions and

school districts of Arkansas; that increases in both the retirement system's asset values allow for increases in systems members' benefits; that most retirements under the Public Employees' Retirement System and the Teacher Retirement System are effective on July 1 and any delay in the effective date of this act beyond July 1, 1997 will cause an undue hardship in administering this act. Therefore, in order to promote the sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

## 24-3-101. Purpose.

The purpose of this chapter is to establish uniform benefit specifications to apply to specified public employees in Arkansas and to establish minimum financing, accounting, and reporting standards for named public employee retirement plans in Arkansas.

**History.** Acts 1977, No. 793, § 1; A.S.A. 1947, § 12-3301.

## 24-3-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Actuarial equivalent" means a benefit of equal reserve value where "reserve" means the present value of all payments to be made on account of any benefit based upon such reasonable rates of interest and tables of experience as a plan shall adopt from time to time;

(2) "Actuary" means a qualified actuary with experience in retirement plan financing. Membership in the American Academy of Actuaries shall be sufficient for a person to be deemed a qualified actuary;

(3) "Age" means age on last birthday;

(4) "Annuity" means a monthly amount payable throughout the life of a person or for a temporary period;

(5) "Beneficiary" means any person except a retirant who is receiving, or is designated by a member to receive, a plan benefit;

(6) "Benefit program" means a schedule of benefits or benefit formulas from which the amounts of benefits can be determined;

(7) "Credited service" means employment covered by a named plan which is credited as service by a named plan, subject to the provisions of § 24-3-301;

(8)(A)(i)(a) "Final average pay" for members of the Arkansas Public Employees' Retirement System means the average of the highest annual compensations paid a member during any period of not less than thirty-six (36) months nor more than forty-eight (48) calendar months of credited service with a public employer with the exact time period to be determined in accordance with the rules and regulations of the Board of Trustees of the Arkansas Public Employees' Retirement System as is actuarially appropriate for the system. Prior to reducing the time period used in determining final average pay, the board of trustees shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the committee.

(b) Should a member have less than the minimum thirty-six (36) calendar months of credited service, "final average pay" means the monthly average of pay to him during his total years of credited service.

(ii) Any other provision to the contrary notwithstanding, if a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "final average pay" shall not be less than his monthly rate of pay at the time of separation from covered employment.

(B)(i) "Final average pay" for members of the State Police Retirement System means the average of the highest annual compensations paid a member during any period of sixty (60) calendar months of credited service with the Department of Arkansas State Police.

(ii) Should a member have less than sixty (60) calendar months of credited service, "final average pay" means the monthly average of pay to him during his total years of credited service;

(9) "General Assembly" means the General Assembly of the state;

(10) "Member" means a public employee who is a member of a named plan;

(11) "Named plan" means any retirement plan covering Arkansas public employees and named in § 24-3-214(a);

(12) "Normal retirement age" means, for a member, the youngest of the following ages:

(A) Age sixty-five (65);

(B) If the provisions of § 24-3-301(b) are used to determine any portion of total credited service, then the age upon completion of

thirty-five (35) years of credited service, but in no event to an age younger than fifty-five (55);

(C) For a member with credited service for employment as a public safety employee or as a sheriff, age sixty-five (65) reduced by one (1) month for each two (2) months of such credited service, but in no event to an age younger than fifty-five (55), except in the case of members of the State Police Retirement System and sheriffs who have a minimum of ten (10) years of actual service as a sheriff or who have eight (8) years of actual service as a sheriff and a minimum of two (2) years of service in another state-supported retirement system, for whom the minimum retirement age shall be fifty-two (52);

(D) The age upon completion of twenty-eight (28) years of credited service, if the provisions of § 24-3-301(b) are not used to determine any portion of such credited service;

(E) For members of the General Assembly with twelve (12) years of actual service, ten (10) of which must be as a member of the General Assembly, at age fifty-five (55). Members of the General Assembly who were either serving in the General Assembly on July 1, 1979, or held an elected office on July 1, 1979, shall be eligible to retire with seventeen and one half (17½) years of actual service regardless of age;

(F) An elected state constitutional officer shall be eligible to retire with twenty-eight (28) years of credited service at age fifty-five (55);

(G) Notwithstanding subdivision (12)(C) of this section, in the case of a deputy sheriff who has a minimum of twenty-five (25) years of actual service as a deputy sheriff, the minimum retirement age shall be fifty-two (52);

(13) "Pay" means the recurring remuneration paid an employee for personal services rendered by the employee in a position covered by a retirement plan for Arkansas public employees. Should a portion of an employee's remuneration be paid him other than in cash, then the cash value of such remuneration shall be established by the plan in an amount not to exceed the amount the employee is required to report for federal income tax purposes. In determining pay, no consideration shall be given to special single-sum payments paid by an employer, employer contributions to any employee benefit plan, or any other unusual or nonrecurring remuneration;

(14)(A) "Public safety member" means a member whose covered employment is for personal services as a police officer or fire fighter and his or her employment occurred prior to July 1, 1997.

(B)(i) "Police officer" means any regular or permanent employee whose primary duty is law enforcement of a municipal police department, a county sheriff's office, or the Department of Arkansas State Police, including probationary police officers, and shall also include wildlife officers of the Arkansas State Game and Fish Commission and all officers and the Director of the State Capitol Police within the office of the Secretary of State.



(ii) The term "police officer" shall not include any civilian employee of a police department or any person temporarily employed as a police officer during an emergency.

(C) "Fire fighter" means any regular or permanent employee of a fire department whose primary duty is fire fighting, including probationary fire fighters, but the term "fire fighter" shall not include any civilian employee of a fire department or any person temporarily employed as a fire fighter during an emergency.

(D) The term "public safety member" shall not include a member whose employment as a police officer or fire fighter occurred on or after July 1, 1997;

(15) "Retirant" means a former member receiving a plan annuity by reason of having been a member;

(16) "Social security" means the federal social security old age, survivors', and disability insurance program; and

(17) "State" means the State of Arkansas and includes all of its duly constituted agencies.

**History.** Acts 1977, No. 793, § 2; 1979, No. 650, §§ 1-3; 1983, No. 625, § 1; 1985, No. 271, § 2; 1985, No. 750, § 1; 1985, No. 910, § 2; A.S.A. 1947, § 12-3302; Acts 1987, No. 493, § 2; 1989, No. 966, § 1; 1991, No. 208, §§ 1-3; 1991, No. 672, § 1; 1991, No. 845, § 2; 1991, No. 970, § 1; 1993, No. 403, § 16; 1993, No. 975, § 1; 1993, No. 1097, § 1; 1997, No. 299, § 26(a); 1997, No. 485, § 3; 1997, No. 1137, § 1; 1999, No. 104, § 1.

**Amendments.** The 1993 amendment by No. 403 inserted "employee" after "civilian" in former (5).

The 1993 amendment by No. 975, in present (8)(A), added "for members of the Arkansas Public Employees' Retirement System," substituted "forty-eight (48)" for "sixty (60)" twice, and substituted "70, § 1" for "56, § 2"; and added (8)(B).

The 1993 amendment by No. 1097, in former (5), inserted "Department of," in-

serted "and all officers and the Director of the State Capitol Police within the office of the Secretary of State," inserted "employee" following "civilian," and made stylistic changes.

The 1997 amendment by No. 299 repealed former (15).

The 1997 amendment by No. 485 added "and his or her employment occurred prior to July 1, 1997" in the introductory paragraph of former (5); added former (5)(C); and made stylistic changes in former (5)(B).

The 1997 amendment by No. 1137 rewrote present (8)(A)(i)(a); and substituted "the minimum thirty-six (36) calendar months" for "forty-eight (48) calendar months" in present (8)(A)(i)(b).

The 1999 amendment substituted "twenty-eight (28)" for "thirty (30)" in present (12)(D) and present (12)(F); and made stylistic changes.

## 24-3-103. Financial objectives and actuarial valuation.

(a) The general financial objective of each Arkansas public employee retirement plan shall be to establish and receive contributions which, expressed as percentages of active member payroll, will remain approximately level from generation to generation of Arkansas citizens. More specifically, contributions received each year shall be sufficient both:

(1) To fully cover the costs of benefit commitments being made to members for their service being rendered in that year; and

(2) To make a level payment which, if paid annually over a reasonable period of future years, will fully cover the unfunded costs of benefit commitments for service previously rendered. Alternatively, if the costs

of benefit commitments for service previously rendered are overfunded, to deduct a level payment which, if deducted annually over twenty (20) future years, will fully liquidate the overfunded portion of such costs.

(b) Each Arkansas public employee retirement plan shall cause an actuarial valuation of the plan or fund to be made at least biennially, and preferably annually, to determine how well the plan is meeting the objectives set forth in subsection (a) of this section.

(c) The employer contribution rates to the named plans shall be as follows:

(1) For the Arkansas Teacher Retirement System, twelve percent (12%);

(2) For the Arkansas State Police Retirement System, twenty-two percent (22%); and

(3) For various divisions of the Arkansas Public Employees' Retirement System, as directed by the Board of Trustees of the Arkansas Public Employees' Retirement System. Employer rates shall be adjusted prospectively on each July 1 and shall be based on the actuary's determination of the rate required to fund the plan in accordance with the objectives set forth in subsection (a) of this section. The contribution rates shall be the rates determined by the annual actuarial valuation.

(d) Subsection (c) of this section shall not be construed as affecting in any way the existing methods of determining the years of credited service for computing benefits or determining retirement eligibility.

**History.** Acts 1977, No. 793, § 6; 1981, No. 286, § 6; 1985, No. 994, § 1; A.S.A. 1947, § 12-3306; Acts 1987, No. 732, §§ 1, 2; 1989, No. 718, § 1; 1991, No. 431, § 1; 1997, No. 299, § 1.

**Amendments.** The 1997 amendment rewrote (c).

## 24-3-104. Reports.

(a) Each Arkansas public employees' retirement system shall have an annual financial audit performed by the Division of Legislative Audit and prepared in accordance with the financial accounting and reporting standards set forth for public pension plans by the Governmental Accounting Standards Board.

(b)(1) In addition, if approved by the board of trustees of an Arkansas public employees' retirement system, a system may also select another independent auditor to perform a separate financial audit of the respective system.

(2) Prior to entering the contract for the additional audit, the public employees' retirement system shall provide the Legislative Joint Auditing Committee the reasons, in writing, for the need of the additional financial audit.

(3) All contracts for audits shall be in compliance with the state's fiscal laws and regulations.

(4) A copy of each audit report prepared by another independent auditor shall be provided to the Legislative Joint Auditing Committee, the Legislative Council, and the Governor.

**History.** Acts 1977, No. 793, § 8; 1981, No. 286, § 7; 1985, No. 412, § 5; A.S.A. 1947, § 12-3308; Acts 1987, No. 9, § 2; 1994 (2nd Ex. Sess.), No. 52, § 1; 1997, No. 299, § 2.

**Amendments.** The 1994 (2nd Ex. Sess.) amendment repealed a)(7).  
The 1997 amendment rewrote this section.

### 24-3-105. Tax exemptions.

(a) The assets of a named plan and those of the Arkansas State Highway Employees' Retirement System and the Arkansas Teacher Retirement System are exempt from taxes by the state or any political subdivision or agency thereof.

(b)(1) It is the purpose of this section to provide equitable tax treatment to persons receiving benefits from alternate publicly supported retirement or annuity plans of the state's colleges and universities and the Department of Higher Education.

(2) It is not the intent of this section to reduce the income tax exemption provided by law to any person in regard to retirement or survivor benefits.

**History.** Acts 1977, No. 793, § 9; 1979, No. 892, § 1; 1981, No. 468, §§ 1, 2; 1983, No. 618, § 1; 1985, No. 486, § 3; A.S.A. 1947, §§ 12-3309, 12-3310.

**Publisher's Notes.** Acts 1981, No. 468, § 4, provided that the act was applicable

to the 1981 income year and each income year thereafter.

**Cross References.** Income tax exemption for retirement or disability benefits, § 26-51-307.

### 24-3-106. Determination of benefits for wildlife officers — Responsibility for additional costs.

(a) For purposes of determining benefits under this chapter, all credited service, whenever earned, of persons employed as wildlife officers of the Arkansas State Game and Fish Commission on July 4, 1983, and of persons thereafter employed in such positions prior to July 1, 1997, shall be treated as public safety member service.

(b) The additional cost to the system of this section shall be the responsibility of the commission, and the commission shall pay to the system an additional twelve percent (12%) of covered payroll at the same time as employer contributions are paid by law for other commission employees.

(c) It is the specific intent of this section to provide that the twelve percent (12%) contribution referenced in subsection (b) of this section shall be in addition to those required by § 24-3-103(c).

(d)(1) Any person who is covered on July 3, 1989, by a state-supported retirement system and who was a member of the system on July 4, 1983, in a position defined by the system as "public safety member" shall receive credit for public safety member service for any service as a wildlife officer with the commission, which service was rendered before July 4, 1983.

(2) Provided, the additional cost to the system shall be the responsibility of the member, and he shall pay to the system any additional cost, as computed by actuarial determination.



**History.** Acts 1983, No. 625, § 2; A.S.A. 1947, § 12-3311; Acts 1989, No. 669, § 1; 1997, No. 485, § 4; 1999, No. 325, § 10.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, 24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

**Amendments.** The 1997 amendment inserted “prior to July 1, 1997” in (a).

**24-3-107. [Repealed.]**

**Publisher’s Notes.** This section, concerning benefits for State Capitol Police, was repealed by Acts 1999, No. 325, § 11.

The 1999 amendment substituted “an additional twelve percent (12%) of covered payroll” for “any additional percent of covered payroll, as computed by actuarial determination” in (b); and substituted “twelve percent (12%) contribution referenced in subsection (b) of this section” for “contributions determined by actuarial valuation” in (c); made minor punctuation changes; and made stylistic changes.

The section was derived from Acts 1993, No. 1097, §§ 2, 3; 1997, No. 485, § 5.

**SUBCHAPTER 2 — BENEFIT PROVISIONS**

SECTION.

- 24-3-201. Benefit provisions generally.
- 24-3-202. Benefit provisions — Election between annuities.
- 24-3-203. Benefit provisions — Election of annuity options.
- 24-3-204. Benefit provisions — Lump-sum payment of reserve value.
- 24-3-205. Benefit provisions — Redetermination of benefit.
- 24-3-206. Benefit provisions — Termination of employment.
- 24-3-207. Benefit provisions — Early retirement.
- 24-3-208. Benefit provisions — Disability retirement.
- 24-3-209. Benefit provisions — Death.
- 24-3-210. Benefit provisions — Payment of annuity balance upon

SECTION.

- death of retirant and beneficiary.
- 24-3-211. [Repealed.]
- 24-3-212. Benefit provisions — Subjection of annuity rights to process of law.
- 24-3-213. Benefit provisions — Inspection of records.
- 24-3-214. Applicability of benefit provisions.
- 24-3-215. Conversion from contributory to noncontributory plan — Extension of time.
- 24-3-216. Early retirement incentives — State employees.
- 24-3-217. Early retirement incentives — County employees.
- 24-3-218. Maximum benefit limitation.

**Publisher’s Notes.** Acts 1981, No. 948 provided that any former member of the Arkansas General Assembly who retired with a minimum of 20 years of service as a member of the General Assembly could elect to rescind a survivor benefit option taken at the time of retirement, as provided for in this subchapter. Upon written application to the Arkansas Public Employees’ Retirement System, the former member’s straight life annuity was to be restored, beginning with the benefit pay-

able on the first of the month following the cancellation of the option. The election was to take place within six months of June 17, 1981.

**Effective Dates.** Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to maintain employee morale and a stable and improved retirement system com-

mensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 650, § 17: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of Act 793 need further clarification in order for their meaning to be comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1980 (1st Ex. Sess.), No. 58, § 3: Feb. 4, 1980. Emergency clause provided: "It is hereby found and determined by the General Assembly that the law relating to the time within which certain members and former members may elect to be covered by the noncontributory retirement plan has created confusion which has resulted in denying some members the option to so elect; that this Act is designed to rectify this inequity by extending the time for such election to July 1, 1980. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 482, § 5: Mar. 13, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain members or former members of the Arkansas State Police Retirement System are unable to receive credit for service with that System under reciprocal laws with other State supported retirement systems. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 894, § 9: Mar. 28, 1981. Emergency clause provided: "It is hereby

found and determined by the General Assembly that various provisions of Act 793 of 1977, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 637, § 4: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law regarding death-in-service benefits has not provided for benefits in the case of otherwise eligible persons who are forced to leave the payroll of a participating employer solely due to illness or accident which results in death and that this act is immediately necessary to correct this inequity. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 677, § 10: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Employees Retirement System law need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 310, § 3: Mar. 12, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that present law prohibits Public Employee Retirement System members from converting from the contributory plan to the noncontributory plan after December 31, 1984; that such deadline should be extended until June 30, 1991; that a gap will exist in the law until this Act becomes effective; and that this Act should therefore become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall

be in full force and effect from and after its passage and approval."

Acts 1987, No. 187, § 11: Mar. 12, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that a reduction in work force caused by budgetary constraints may be avoided by offering early retirement incentives; that to offer early retirement incentives and to avoid unnecessary layoffs this Act should take effect immediately upon its passage. Therefore, an emergency is declared and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 357, § 7: Mar. 23, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is in the best interest of the public health, welfare and safety that members in the public safety category of the Public Employees Retirement System should be permitted to transfer to another employment protecting the public health and safety and that current retirement laws discourage said transfers. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 717, § 5: Apr. 7, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that a reduction in county work forces called for by budgetary constraints may be avoided by offering early retirement and to avoid unnecessary layoffs, this Act should take effect immediately upon its passage; and that the immediate passage of this Act is necessary to accomplish said purpose, thereby assuring members of the County Division of the Public Employees Retirement System a more equitable method of computing retirement benefits. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and welfare, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 951, § 3: emergency clause provided to pass. Emergency clause provided: "It is hereby found and determined by the

General Assembly that under the present Public Employees Retirement System law the benefits of retirants who retire before becoming eligible to receive Social Security benefits, are reduced substantially by a Social Security offset; that in many cases this Social Security offset places a severe hardship on the retirant; that this Act is designed to provide that the Social Security offset for public employee retirants shall not be applied until the retirant reaches age sixty-two, and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval." Approved Apr. 14, 1987.

Acts 1991, No. 224, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the benefits provided to members of the Arkansas Public Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to provide adequate benefits. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 432, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System and the Arkansas State Police Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 661, § 6: Mar. 20, 1991. Emergency clause provided: "That inequities between the contributory state police retirement system and the noncontributory system have resulted in inequities occurring between surviving spouses and minor children of retirants of the two systems; that such inequities are not eas-



ily understood when both former members honorably served this state as members of the Arkansas State Police; that in order to remedy this circumstance, it is necessary that this bill become effective immediately upon its passage and approval. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 845, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the effectiveness of this Act on July 1, 1991 is essential to the operation of the Arkansas Public Employees' Retirement System and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1995, No. 628, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that retirement benefits provided to current members and future retirees of the Arkansas Public Employees Retirement System are inadequate and inequitable; that the benefits amounts should be increased in order to provide adequate benefits and relieve this inequity, and that effective fiscal administration of the System will be aided by implementing those increases at the beginning of the state's fiscal year. Therefore, in order to promote sound fiscal administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 666, § 5: Mar. 17, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that those state employees who still participate in the contributory plan

under the Public Employees Retirement System should be allowed to convert to the noncontributory plan; that this act so provides; and that this act should go into effect immediately in order to provide this option to those state employees as soon as possible. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 962, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the certain members of the Public Employees' Retirement System are being denied retirement service credit due to work-related injuries through no fault of their own; that this restriction is inequitable and should be changed to allow those employees to recover the service credit for that time; and that this restriction should be removed as soon as practicable without delay in order to avoid an undue hardship to retiring public employees. Therefore, in order to reduce the inequities of the Public Employees' Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1356, § 6: July 1, 1997.

Acts 1997, No. 266, § 5: Feb. 25, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the PERS law providing for retirants to choose retirement annuity options limits a surviving spouse to only a six-month time period after the retirees' death in order to change the selected option; that some surviving spouses of PERS retirees will be left without financial support because of a lack of financial foresight by those retirees unless the law provides for changing retirement options up to one (1) year of the death of the retiree; that the Teacher Retirement System law allows up to one-year after the death of the retiree to change the option; and that the failure to provide for a one-year time period and to implement this change immediately will cause an undue hardship on some surviving beneficiaries.

Therefore, in order to provide for the financial security of retirees' widowed spouses, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 299, § 28: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 318, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that retirement benefits payable to current and future retirants and beneficiaries of the Arkansas Public Employees' Retirement System are inadequate; that the current and future retirant and beneficiary payments should be increased as soon as possible in order to relieve this inequity; and that effective fiscal administration of the System will be aided by implementing those increases at the same time as the State's fiscal year begins. Therefore, in order to promote sound fiscal administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 485, § 12: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First

General Assembly of the State of Arkansas that public safety members for the Public Employees' Retirement System earn credit at one and one-half times the normal rate of service credit; that the dollar cost to the System of this service credit is too expensive and is escalating with the addition of other groups of employees as public safety members; and that it is necessary to restrain the future use and costs to the System of this service credit and to implement this act at the beginning of the States' fiscal year. Therefore, in order to reduce the financial burden on the Public Employees Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 1053, § 28: July 1, 1998.

Acts 1999, No. 39, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that historically the Public Employees Retirement System has recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect on July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 496, § 9: July 1, 1999. Emergency clause provided: "It is hereby

found and determined by the Eighty-second General Assembly, that retirement benefits payable to current and future retirants and beneficiaries of the Arkansas Public Employees Retirement System are inadequate; that the current and future retirant and beneficiary payments should be increased as soon as possible in order to relieve this inequity, and that the effective fiscal administration of the System will be aided by implementing those increases at the same time as the state's fiscal year begins. Therefore, in order to promote sound fiscal administration in State government, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1450, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain provisions of the law governing the Public Employees' Retirement System need to be amended concerning eligibility for death benefits and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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### **24-3-201. Benefit provisions generally.**

(a)(1) Any member in named plan employment may retire with an annuity provided for in subsection (e) of this section upon his written application to the governing body of his named plan setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of his application, he desires to be retired.

(2) At the time of his separation from employment and at the time so specified for his retirement, the member must have attained normal retirement age and must have five (5) or more years of credited service, except for members of the General Assembly, who must have ten (10) or more years of credited service.

(3) The member's annuity starting date shall be that date established by the provisions in each named plan, and he shall have a right to elect an option provided for in § 24-3-203.

(b) Any person who terminated covered employment prior to July 1, 1979, and having at termination a vested interest in the system must be reemployed under the system for at least six (6) continuous months before being eligible to retire under the noncontributory provisions.

(c)(1) Total credited service to qualify for a benefit may be service with named plans and service with the University of Arkansas system, which service is covered by the retirement system recognized by the University of Arkansas.

(2)(A) The benefit payable by named plans shall be based on credited service in named plans and on the final average compensation in named plans.

(B) Should a member have less than four (4) years of service credited in named plans, "final average compensation" means the monthly average of pays to him during his total years of service in named plans.



(d)(1) The governing body of a member's employer shall determine the compulsory separation age for its employees.

(2) Upon his separation from his last employment covered by a named plan, a member who has attained his normal retirement age shall receive an annuity provided for in subsection (e) of this section and shall have the right to elect an option provided for in § 24-3-203.

(e)(1) Upon a member's retirement, he shall receive an annuity for life equal to the total of the following amounts:

(A) For each year of credited service in the Arkansas Public Employees' Retirement System resulting from employment in a position covered at any time by social security or another federal retirement plan supported wholly or in part by employer contributions, one and seventy-two hundredths percent (1.72%) of his final average pay plus, for each year of credited service in the Arkansas Public Employees' Retirement System resulting from employment in a position never so covered, two and seven hundredths percent (2.07%) of his final average pay;

(B) For each year of credited service in the State Police Retirement System, one and fifty-five hundredths percent (1.55%) of his final average pay; and

(C)(i) For a member of the General Assembly, a monthly annuity equal to thirty-five dollars (\$35.00) times the number of years of actual service as a member of the General Assembly; and

(ii) For a member of the General Assembly who served as Speaker of the House of Representatives or President Pro Tempore of the Senate, a monthly annuity equal to forty dollars (\$40.00) times the total number of years of actual service as a member of the General Assembly.

(2)(A) In addition, if a member has credited service resulting from employment in a position covered at any time by social security or another federal retirement plan supported wholly or in part by employer contributions, and if that member is retiring as provided in subsections (a)-(d) of this section or § 24-3-207(a), and if that member's age at retirement is younger than:

(i) Social security's minimum age for an immediate retirement benefit; and

(ii) Age sixty-two (62), then that member of the Arkansas Public Employees' Retirement System shall receive a temporary annuity equal to thirty-three hundredths percent (0.33%) of his final average pay for each year of such credited service.

(B) A similar member of the State Police Retirement System shall receive a temporary annuity equal to three hundred twenty-two thousandths percent (0.322%) of his final average pay for each year of credited service.

(C) The temporary annuity shall terminate at the end of the calendar month in which the earliest of the following events occurs:

(i) The member's death;

(ii) His attainment of the social security minimum age; or

(iii) His attainment of age sixty-two (62).

(3) It is considered sound public policy that retirement pay not exceed working pay except for increases after retirement caused by inflation. Accordingly, at the time of retirement, the total of named plan annuities resulting from employment in a position also covered by social security shall not exceed his final average pay.

(4) If no temporary annuity is payable as provided in this subsection or after the temporary annuity has terminated, and if the member has at retirement any credited service for any period of time prior to July 1, 1991, then the future payments of the annuity for life shall not be less than they would have been under the provisions that were in effect on July 1, 1990, for this subsection, plus a corresponding increase for any benefit enhancements that have been enacted since July 1, 1991.

**History.** Acts 1977, No. 793, § 5; 1979, No. 650, § 8; 1985, No. 938, §§ 9, 13; 1985, No. 994, § 2; A.S.A. 1947, § 12-3305; Acts 1987, No. 951, § 1; 1991, No. 208, § 4; 1991, No. 224, § 1; 1993, No. 432, § 1; 1993, No. 975, § 2; 1995, No. 628, § 1; 1995, No. 962, § 2; 1995, No. 1356, § 1; 1997, No. 299, § 3; 1997, No. 318, § 2; 1997, No. 1053, § 22; 1999, No. 496, § 1.

**A.C.R.C. Notes.** As enacted, the 1991 amendment in (e)(1) began: "Beginning July 1, 1991."

**Amendments.** The 1993 amendment, in (e)(4), deleted "of this subsection" preceding "that were in effect," and added "for this subsection, the provisions of §§ 24-3-102(8) and 24-4-101(17)"; and deleted "plus his Social Security primary benefit" following "covered by Social Security" in (e)(5).

The 1995 amendment by No. 628 rewrote (e).

The 1995 amendment by No. 962 added (e)(4).

The 1995 amendment by No. 1356 inserted "five (5) or more years of credited service, except for members of the General Assembly, who must have" in (a)(2).

The 1997 amendment by No. 299 sub-

stituted "four (4) years" for "five (5) years" in (c)(2)(B).

The 1997 amendment by No. 318, in (e)(1)(A), substituted "one and seventy hundredths percent (1.70%)" for "one and sixty-five hundredths percent (1.65%)" and "two and five hundredths percent (2.05%)" for "one and nine hundred ninety-two thousandths percent (1.992%)"; substituted "thirty-five hundredths percent (.35%)" for "three hundred forty-two thousandths percent (0.342%)" in the last paragraph in (e)(2)(A); and substituted "plus a corresponding increase for any benefit enhancements that have been enacted since July 1, 1991" for "the provisions of § 24-3-102(8), and § 24-4-101(17)" in (e)(4).

The 1997 amendment by No. 1053 substituted "actual service" for "credited service" in (a)(2).

The 1999 amendment in (e)(1), substituted "seventy-two" for "seventy", substituted "1.72%" for "1.70%", substituted "seven" for "five", and substituted "2.07%" for "2.05%"; substituted "thirty-three" for "thirty-five" and substituted "0.33%" for "0.35%" in (e)(2)(A)(ii); and made stylistic changes.

## 24-3-202. Benefit provisions — Election between annuities.

(a) Any member who is eligible to receive a monthly retirement annuity from the Arkansas Public Employees' Retirement System and who is otherwise receiving or eligible to receive at some future date a retirement annuity from another retirement plan authorized by the laws of this state, other than social security or another federal retirement plan, which annuity is based upon the same pay in whole or in

part that is also covered by the Arkansas Public Employees' Retirement System, shall be eligible to receive only one (1) such annuity.

(b) The member shall notify each system in writing at the time of retirement as to the one (1) plan from which he shall request benefits, and this election cannot be changed after benefits begin.

(c) If the member chooses to receive benefits from a plan other than the Arkansas Public Employees' Retirement System, then he shall be eligible to receive a refund of his accumulated contributions, if any, to the Arkansas Public Employees' Retirement System and any interest which has accrued on the contributions.

(d) The participating public employer who makes, or has made prior to March 28, 1981, contributions on behalf of the member, may receive credit against future payments due for the contributions paid, if requested by the employer.

**History.** Acts 1977, No. 793, § 5; 1979, No. 650, § 14; 1981, No. 894, § 6; A.S.A. 1947, § 12-3305.

### **24-3-203. Benefit provisions — Election of annuity options.**

(a) Before the date the first payment of his annuity becomes due, but not thereafter, a member may elect to receive his annuity as a straight life annuity or he may elect to have his annuity reduced and nominate a beneficiary in accordance with the provisions of one (1) of the following options:

**(1) OPTION A60 — SIXTY (60) MONTHS CERTAIN AND LIFE ANNUITY.**

(A) Under Option A60, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before sixty (60) monthly payments have been made, then the full reduced annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant shall have designated in writing and filed with the plan.

(B) If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(C) The reduced annuity shall be ninety-six percent (96%) of the straight life annuity.

**(2) OPTION A120 — ONE HUNDRED TWENTY (120) MONTHS CERTAIN AND LIFE ANNUITY.**

(A) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons and in such shares as the retirant shall have designated in writing and filed with the plan.

(B) If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payment shall be paid to the estate of the last survivor among the retirant and the designated persons.



(C) The reduced annuity shall be ninety percent (90%) of the straight life annuity.

(3) **OPTION B50 — FIFTY PERCENT (50%) SURVIVOR BENEFICIARY ANNUITY.**

(A) Under Option B50, the retirant shall be paid a reduced annuity for life with the provision that, upon his death, one-half ( $\frac{1}{2}$ ) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the plan before his annuity starting date. However, that person must be either his spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-three percent (83%) if the retirant's age and his beneficiary's age are the same on the first payment due date, which shall be decreased by one-half percent (0.5%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half percent (0.5%), up to a maximum of ninety-five percent (95%), for each year that the beneficiary's age is more than the retirant's age.

(4) **OPTION B75 — SEVENTY-FIVE PERCENT (75%) SURVIVOR BENEFICIARY ANNUITY.**

(A) Under Option B75, the retirant shall be paid a reduced annuity for life with the provision that, upon his death, three-quarters ( $\frac{3}{4}$ ) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the plan before his annuity starting date; however, that person must be either his spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be seventy-eight percent (78%) if the retirant's age and his beneficiary's age are the same on the first due date, which shall be decreased by three-quarters percent (0.75%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by three-quarters percent (0.75%), up to a maximum of ninety percent (90%), for each year that the beneficiary's age is more than the retirant's age.

(b)(1) A death of a spouse or divorce or other marriage dissolution or the death of a person forty (40) years of age or older who is the designated beneficiary under Option B50 or B75 following retirement shall cancel, at the written election of the retirant, Option B50 or B75 elected at retirement to provide continuing lifetime benefits to such designated person and return the retirant to this straight life or Option A60 or A120 annuity, to be effective the month following receipt of his election by the system.

(2) A retirant who is receiving a straight life or Option A60 or A120 annuity and who marries after retirement or within the one (1) year

immediately preceding retirement may elect to cancel his straight life or Option A60 or A120 annuity and may elect Option B50 or B75 providing continuing lifetime benefits to his spouse, but only if the election is on a form approved by the system and is received by the system not earlier than one (1) year after the date of the marriage and not later than eighteen (18) months after that date.

(3) The election shall be effective the first day of the month following its receipt.

(c) If a member fails to elect an option, his annuity shall be paid him as a straight life annuity.

(d)(1) If a member of the State Police Retirement System fails to elect an option, his annuity shall be paid him as a straight life annuity.

(2)(A)(i) In the event the retirant dies and leaves a spouse to whom the retirant was married at least three (3) years prior to the date of his retirement, the surviving spouse shall receive an annuity equal to seventy-five percent (75%) of the retirant's annuity, but only if the spouse has under care the retirant's dependent children whose dates of birth are prior to the retirant's date of retirement.

(ii) When the spouse no longer has under care such a dependent child, the annuity shall be reduced to fifty percent (50%) of the retirant's annuity.

(iii) Upon the spouse's remarriage or death, the annuity provided for in this subsection shall terminate.

(B)(i) In the event the retirant dies and leaves a spouse to whom he was married at least three (3) years prior to the date of his retirement and who does not have under care the retirant's dependent children, the surviving spouse shall receive an annuity equal to fifty percent (50%) of the retirant's annuity.

(ii) Upon the spouse's remarriage or death, the annuity provided for in this subsection shall terminate.

(C)(i) In the event the retirant dies and does not leave a spouse eligible for an annuity as provided for in this subsection, or in the event the surviving spouse dies or remarries and the annuity provided for in this subsection is terminated, and there is surviving the retirant a dependent child, or children, each such child shall receive an annuity of an equal share of seventy-five percent (75%) of the retirant's annuity.

(ii) In no case shall the annuity payable to any such child exceed twenty-five percent (25%) of the retirant's annuity.

(3)(A)(i) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever occurs first.

(ii)(a) However, the age eighteen (18) maximum shall be extended as long as the child is continuously enrolled as a full-time student at an accredited secondary school or accredited postsecondary institution of higher education, but in no event beyond his attainment of age twenty-three (23).

(b) The eighteen-year maximum shall also be extended for any child who has been deemed physically or mentally incompetent by a

court with jurisdiction over the individuals or by the board, for as long as the incompetency exists.

(B) Once a child ceases to be dependent, his annuity shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children.

(C) The board of trustees is hereby authorized to establish through rules and regulations a means of verification of enrollment in a secondary school or postsecondary institution of higher education by a surviving dependent child under this subsection for purposes of annuity benefits.

(4) If a surviving spouse who is receiving survivor's benefits under this subsection remarries and the benefits are discontinued and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(5)(A) Effective July 1, 1991, benefits shall be resumed for any surviving spouse who had remarried but is unmarried on that date, but no such benefit will be paid the surviving spouse for any period prior to July 1, 1991.

(B)(i) The provisions of subdivision (d)(2) of this section shall be retroactive to June 1, 1990.

(ii) Any surviving beneficiary of a state police officer retirant shall apply with the system for benefits set forth in subdivision (d)(2) of this section on the form approved by the system.

(iii) Such application must be received by the system within sixty (60) days after March 20, 1991, or within sixty (60) days of the death of the retirant, whichever is later.

(iv) The benefits provided in this subsection shall become effective the first day of the month following receipt of the application form by the system.

(e) The surviving spouse of a member of the Arkansas Public Employees' Retirement System who retired on or after February 1, 1991, and who elected a straight life annuity shall be entitled to receive a survivor's annuity equal to the amount that would have been received had the member elected Option B75, provided:

(1) The member dies within twelve (12) months of the effective date of retirement; and

(2) The surviving spouse makes application to the Arkansas Public Employees' Retirement System within six (6) months of the date of the member's death or, if the member is deceased prior to August 13, 1993, within six (6) months of August 13, 1993.

**History.** Acts 1977, No. 793, § 5; 1979, No. 650, § 13; A.S.A. 1947, § 12-3305; Acts 1991, No. 661, § 1; 1993, No. 1200, § 1; 1997, No. 266, § 1.

**A.C.R.C. Notes.** Acts 1991, No. 661, § 2, provided: "(a) Any person who is eligible for benefits under the Arkansas State Police Retirement System, and who, on January 1, 1991, serves as Director of

the Arkansas State Police, shall be given credit for time served under the noncontributory retirement system. Any such person who shall have a minimum of ten (10) years service which may be cumulative from both systems, shall be included in the term "member" as it applies to membership in the present noncontributory retirement system of the Arkansas



State Police as set out in A.C.A. § 24-6-201 et seq.

“(b) The retirement credit earned shall be supplemental to those benefits earned under the contributory retirement system of the Arkansas State Police.

“(c) Any additional costs to the system as a result of this section shall be paid

from the operations appropriation of the Arkansas State Police.”

**Amendments.** The 1993 amendment added (e).

The 1997 amendment substituted “twelve (12) months” for “six (6) months” in (e)(1).

### **24-3-204. Benefit provisions — Lump-sum payment of reserve value.**

(a) The plan may pay the reserve value of any annuity benefit to a retirant or beneficiary when the annuity benefit payment is less than twenty dollars (\$20.00) per month except that the consent of the payee shall be required if the payment exceeds one thousand seven hundred fifty dollars (\$1,750).

(b) The reserve value shall be the actuarial equivalent of the annuity otherwise payable.

(c) Any lump-sum payment so made shall be a complete discharge of all liability under the plan with respect to the annuity.

**History.** Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305.

### **24-3-205. Benefit provisions — Redetermination of benefit.**

(a) Each July 1 the system shall redetermine the amount of each monthly benefit which has been payable by the system for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months.

(b) The redetermined amount shall be the amount of the benefit payable as of the immediately preceding July 1 increased by three percent (3%).

**History.** Acts 1977, No. 793, § 5; A.S.A. 1947, § 12-3305; Acts 1987, No. 477, § 2; 1991, No. 432, § 1; 1997, No. 299, § 4; 1999, No. 39, § 1.

rewrote former (a)(3); deleted former (b); and redesignated former (c) as former (b).

The 1999 amendment rewrote this section.

**Amendments.** The 1997 amendment

### **24-3-206. Benefit provisions — Termination of employment.**

(a) A member who terminates named plan employment before attaining his normal retirement age, for a reason other than death or early retirement or disability retirement, shall be entitled to an annuity computed in accordance with the provisions of subsection (b) of this section as it provides at time of last termination of employment, subject to the member’s satisfying all of the following conditions:

(1)(A) Except for members of the General Assembly, who must have at least ten (10) years of credited service, the member has five (5) or more years of total actual service with named plans or with reciprocal systems under the provisions of §§ 24-2-401 — 24-2-405 if, in

establishing the minimum total credited service, periods of credited service covering the same calendar time shall be counted only once. However, both service in the Arkansas Public Employees' Retirement System as a member of the General Assembly and service in another reciprocal system during the same period of time may be counted to meet the service requirements for benefits from the reciprocal systems, subject to the following:

(i) The provisions of § 24-3-301 may not be used to meet the service requirements; and

(ii) The benefit payable by a reciprocal system will be based on the credited service in that system and on the final average pay under that system.

(B) If a member has fewer years of service than the final average salary requirement in a reciprocal system, then "final average pay" means the monthly average of pay to him during his total years of service in that system;

(2) The member lives to his annuity starting date;

(3) The member makes written application for retirement and payment of the annuity to the plan on or after the date which is ninety (90) days before the date he attains his normal retirement age;

(4) The annuity starting date shall be the first day of the calendar month next following the later of either the attainment of normal retirement age or receipt of the application; and

(5) Upon termination of public safety service with all Arkansas governmental units, a public safety employee who was employed prior to July 1, 1997, and whose public safety service was covered at different times by the Arkansas Public Employees' Retirement System and by the Arkansas Local Police and Fire Retirement System shall receive retirement benefits based upon public safety service covered by either system if all of the following conditions are satisfied:

(A) "Public safety service covered by the Arkansas Public Employees' Retirement System" means service as a public safety member as defined in § 24-3-102 and by a person who was employed prior to July 1, 1997; and

(B) The total of public safety service credit in the Arkansas Public Employees' Retirement System and the Arkansas Local Police and Fire Retirement System is at least twenty (20) years, provided the provisions of § 24-3-301(b) are not used to meet the service requirements; and

(C) The benefit payable by each system shall be based upon the service credit with that system, the benefit program the system had in effect at the time the member terminated service covered by the system, and his service and pay covered by the system while the service was being rendered.

(b) The monthly amount of vested termination annuity shall be computed in the same manner as a normal annuity amount provided for in § 24-3-201(e), but it shall be based upon the member's credited service and final average pay at the time of termination of named plan employment.

(c) The member shall have the right to elect an option provided for in § 24-3-203.

**History.** Acts 1977, No. 793, § 5; 1979, No. 650, § 10; 1985, No. 938, § 10; A.S.A. 1947, § 12-3305; Acts 1987, No. 357, § 1; 1987, No. 737, § 2; 1993, No. 432, § 2; 1995, No. 1356, § 2; 1997, No. 299, § 5; 1997, No. 485, § 6; 1997, No. 1053, § 23.

**Amendments.** The 1993 amendment made minor stylistic changes throughout.

The 1995 amendment redesignated the subdivisions in (a); and substituted “Except for members of the General Assembly, who must have at least ten (10) years of credited service, the member has five (5)” for “The member has ten (10)” in present (a)(1)(A).

The 1997 amendment by No. 299 substituted “fewer years of service than the final average salary requirement” for “fewer than five (5) years of service credited” in (a)(1)(B).

The 1997 amendment by No. 485 inserted “who was employed prior to July 1, 1997 and” in the introductory language of (a)(5); inserted “and by a person who was employed prior to July 1, 1997” in (a)(5)(A); and rewrote (b)(1).

The 1997 amendment by No. 1053 substituted “total actual service” for “total credited service” in (a)(1)(A).

## 24-3-207. Benefit provisions — Early retirement.

(a)(1) Any member or former member with sufficient years of credited service to qualify for a vested termination annuity who has not attained his normal retirement age may retire with an early annuity provided for in subsection (b) of this section upon his written application to the plan setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of his application, he desires to be retired.

(2) The member or former member eligible for a vested termination annuity must have at least five (5) years of actual service and be within ten (10) years of normal retirement age, except for members of the General Assembly, who must have at least ten (10) years of credited service and be within ten (10) years of normal retirement age.

(b) Upon early retirement, a member shall receive a certain percentage of an annuity for life provided for in § 24-3-201(e), which percentage shall be one hundred percent (100%) reduced by one-half of one percent (0.5%) multiplied by the number of months by which his age at early retirement is younger than his normal retirement age, using what his normal retirement age would have been if he had continued named plan-covered employment from the time of early retirement.

**History.** Acts 1977, No. 793, § 5; 1979, No. 650, § 9; A.S.A. 1947, § 12-3305; Acts 1995, No. 1356, § 3; 1997, No. 1053, § 24.

**Publisher’s Notes.** As to exception from reduction of benefits for certain retired county judges, see Acts 1981, No. 977 and Acts 1981, No. 993.

**Amendments.** The 1995 amendment

inserted “at least five (5) years of credited service and be within ten (10) years of normal retirement age, except for members of the General Assembly, who must have” in (a)(2); and substituted “percentage” for “percent” twice in (b).

The 1997 amendment substituted “actual service” for “credited service” in (a)(2).



**24-3-208. Benefit provisions — Disability retirement.**

(a)(1)(A) Except for members of the General Assembly who need at least ten (10) years of credited service, any active member with five (5) or more years of actual service, including credited service for at least eighteen (18) of the twenty-four (24) calendar months immediately preceding his disability, who becomes totally and permanently physically or mentally incapacitated for any suitable job or position as an employee as a result of a personal injury or disease may be retired by the board of trustees upon written application filed with the board by or on behalf of the member.

(B) This may take place only if after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the board in writing that:

(i) The member is physically or mentally totally incapacitated for any suitable job or position;

(ii) The incapacity will probably be permanent; and

(iii) The member should be retired.

(2) Upon filing the proper application and meeting the requirements stated in this section, the disability annuity shall be effective the first day of the calendar month next following the later of either his termination of active membership or the onset date of the qualifying disability.

(b)(1) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-3-201(e), and his disability retirement and annuity shall be subject to the provisions of subsections (c) and (d) of this section.

(2) When a person retired on disability under this chapter reaches the age required for full age and service retirement benefits, his retirement status shall be changed from that of disability to superannuation and he shall be eligible to return to employment subject to the provisions of § 24-3-211 [repealed].

(c)(1) At least once each year during the first five (5) years following a member's retirement on account of disability and at least once in each three-year period thereafter, the board may require any disability retiree who has not attained the normal retirement age for full age and service retirement benefits to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2)(A) If such a retiree refuses to submit to a medical examination in any such period, his disability annuity may be suspended by the board until his withdrawal of his refusal.

(B) If his refusal continues for one (1) year, all his rights in and to a disability annuity may be revoked by the board.

(3) If, upon a medical examination of a retiree, the physician reports to the board that the retiree is physically and mentally able and capable for a suitable job or position as an employee, his disability retirement shall terminate.

(d)(1) If a disability retirant secures employment with an employer not considered a public employer, as defined by § 24-4-101, for the purpose of determining whether he is capable of returning to employment, then the disability retirant shall be allowed to earn compensation from the employment for a period of time not to exceed nine (9) months, during which period of time the retirant shall receive no monthly benefits from the system.

(2) If the retirant becomes unable to continue his employment before the nine-month period expires, then his disability retirement benefits from the system shall be reinstated and be effective the first day of the month after terminating his employment.

(3) Only one (1) trial work period is allowed any disability retirant, but the nine (9) months need not be consecutive.

(4) The trial work period does not prevent the consideration of any medical evidence which may demonstrate recovery before the ninth month of trial work.

(5)(A) If, at the end of the nine-month trial work period, the retirant wishes to continue his employment outside the system, then his disability retirement status shall terminate.

(B) For the purpose of determining his eligibility for any other benefit, he shall be considered to have terminated active membership as of the time of disability retirement but for a reason other than disability or death.

(6)(A) If the former disability retirant again becomes an employee of a public employer as defined by § 24-4-101, he shall immediately again become a member of the system, and his credited service at the time of his disability retirement shall be restored to his credit.

(B) The amount of his accumulated contributions at the time of his disability retirement shall be restored to his credit in the members' deposit account, but in no event shall he be given service credit for the period he was in receipt of his disability annuity.

(7) Should the former disability retirant again become totally and permanently disabled within twenty-four (24) months immediately following his return to membership or qualify for benefits by reason of age and service, the eighteen (18) months' credited service requirement specified in subsection (a) of this section shall be waived.

(e)(1) As used in this section, "suitable job or position" means a job or position the requirements of which can be physically or mentally performed, as determined by a physician, and for which the remuneration would be substantially gainful.

(2) In case of doubt as to what would be substantially gainful, the board shall have the final power to decide the question.

(3) Any former member who is or was approved for disability by the Social Security Administration but whose onset date does not meet the provision of subdivision (a)(1)(A) of this section that requires credited service for eighteen (18) of the twenty-four (24) months immediately preceding the disability, may be retired by the board upon written application to the board subject to the following:

(A) The onset date determined by the Social Security Administration is within twenty-four (24) months of the date of termination from covered employment;

(B) The former member furnishes a written statement to the board from a physician approved by the board that the former member was suffering at the time of termination from an illness or injury that subsequently led to the disability determination; and

(C) Retirement payments authorized under this section shall be effective on the first day of the next month following approval by the board of the written application and shall not be retroactive.

**History.** Acts 1977, No. 793, § 5; 1981, No. 894, § 5; A.S.A. 1947, § 12-3305; Acts 1995, No. 1356, § 4; 1997, No. 1053, § 25; 1999, No. 325, § 3; 1999, No. 868, § 2.

**Publisher's Notes.** As to exception from reduction of benefits for certain retired county judges, see Acts 1981, No. 977 and Acts 1981, No. 993.

Former § 24-3-211, referred to in subdivision (b)(2), was repealed by Acts 1987, No. 525, § 1.

**Amendments.** The 1995 amendment

substituted "Except for members of the General Assembly who need at least ten (10) years of credited service, any active member with five (5)" for "Any active member with ten (10)" in (a)(1)(A).

The 1997 amendment substituted "actual service" for "credited service" following "five (5) or more years of" in (a)(1)(A).

The 1999 amendment by No. 325 rewrote (a)(2); and made stylistic changes.

The 1999 amendment by No. 868 added (e)(3); and made stylistic changes.

## 24-3-209. Benefit provisions — Death.

(a) If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, the applicable benefits provided in this section shall be paid, upon written application to the board.

(b)(1)(A) In the event that a member dies and is not being paid on that date by his employer due solely to illness incurred before he left the payroll and the death occurs within one (1) year of the last payroll, or if the member's death occurs on or after July 1, 1998, and long-term disability provided by the employer was being paid at the time of death and the date of death is within eighteen (18) months of the last payroll, then the member shall be considered, for purposes of this section, to have died as an active member if all other necessary provisions of this section are met.

(B) For purposes of computing benefits provided by this section, the deceased member's compensation at the time of death shall be his compensation for the year immediately preceding the cessation of his pay.

(2)(A) If an active member with five (5) or more years of credited service does not have credited service for the year immediately preceding death due to illness which eventually leads to his death or due to his employer's removing the member from the payroll because of temporary economic conditions of the employer or weather conditions, the active member shall be considered, only for eligibility



purposes of this section, to have credited service for the year preceding death.

(B) Benefits shall be paid according to the compensation earned during the year preceding death.

(3) If a member died between July 1, 1982, and March 22, 1983, his surviving spouse, dependent children, or dependent parents shall be eligible for the benefits provided in this section if the member's contributions have not been refunded or, if refunded, if the contributions and interest are repaid to the system plus regular interest as defined by § 24-4-101(26) from the date withdrawn to the date repaid.

(4) The effective date of benefits provided in this section shall in no event be prior to the first day of the calendar month next following the date payment is received by the system.

(c)(1) The member's surviving spouse who was married to the member at least the one (1) year immediately preceding his death shall receive an annuity computed in the same manner in all respects as if the member had retired the date of his death with entitlement to an annuity provided for in § 24-3-201(e), elected the Option B75 survivor annuity provided for in § 24-3-203, and nominated his spouse as joint beneficiary.

(2)(A)(i) If the member has satisfied the age and service requirement provided for in § 24-3-201(a) and (b) or had acquired twenty (20) years' credited service, then the spouse annuity shall commence immediately and be payable for her life.

(ii) If the member has not satisfied the age and service requirement provided for in § 24-3-201(a) and (b) or had not acquired twenty (20) years of credited service, then the spouse annuity shall commence immediately and be payable until the earlier of her remarriage or death.

(B)(i) A surviving spouse who is otherwise eligible but whose benefit has been deferred because the spouse did not meet the age requirements in effect before July 1, 1999, shall be eligible to commence a spouse annuity effective July 1, 1999.

(ii) The spouse annuity shall not be retroactive.

(3) The spouse annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at the time of death.

(4) In any event, as long as the surviving spouse has in her care any of the deceased member's dependent children receiving a benefit provided for in this section, there shall be payable to her a spouse annuity which shall not be less than ten percent (10%) of the deceased member's compensation at the time of death.

(d)(1) The member's dependent child or dependent children shall each receive an annuity of the greater of either ten percent (10%) of the member's covered compensation at the time of death or an equal share of one hundred fifty dollars (\$150) monthly.

(2) If there are three (3) or more dependent children, each dependent child shall receive as an annuity an equal share of the greater of either twenty-five percent (25%) of the member's covered compensation or one hundred fifty dollars (\$150) monthly.

(3)(A) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university but in no event beyond his attainment of age twenty-three (23).

(ii) The age eighteen (18) maximum shall also be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction or by the board for as long as the incompetency exists.

(4) Upon a child's ceasing to be a dependent child, his annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e) If, at the time of the member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of either ten percent (10%) of the member's covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, but only if the board finds that the parent was dependent for at least fifty percent (50%) of his financial support upon the member.

(f)(1) If no annuity can become payable to a dependent child due to the death of the member, and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and the spouse or dependent parents are also the designated beneficiaries of the member, then, in that event, the surviving spouse or dependent parent may elect to receive a refund of the member's accumulated contributions as provided in § 24-4-602(d) in lieu of any benefits which could become payable under this chapter.

(2) The option to choose a refund of the member's contribution shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this chapter and who could not exercise that option.

(3) Once the refund of the deceased member's accumulated contributions has been made to the surviving spouse or dependent parents under this subsection, the recipient shall have no future claim to monthly retirement benefits due to the death of the member.

(g)(1) In the event all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the members' deposit account at the time of his death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving a termination, the difference shall be paid to the member's estate.

(h)(1) The surviving spouse of a member who has served at least ten (10) calendar years in the General Assembly shall be entitled to a benefit not less than one hundred percent (100%) of the benefit the

member was receiving or would have been entitled to receive had he been of retirement age.

(2) The spouse shall begin to receive the survivor benefits provided in this subsection at age sixty (60) if the member had at least ten (10) actual years of General Assembly service, at age fifty-five (55) if the member had at least fourteen (14) actual years of General Assembly service, and at age fifty (50) if the member had at least eighteen (18) actual years of General Assembly service.

(3) The benefits shall cease immediately upon the death or remarriage of the surviving spouse.

(4) If, upon the death of a member of the General Assembly, the surviving spouse is also eligible for the benefits provided in subsections (a)-(g) of this section, then the benefits provided by this subsection shall be the only benefit payable to the survivors of the member or former member.

(5) The provisions of this subsection shall apply to active, deferred, and retired General Assembly members as well as surviving spouses of General Assembly members receiving benefits under this subsection on or after February 1, 1991.

(i) All annuities payable under the provisions of this section shall be effective the first day of the calendar month next following the month in which the survivor becomes eligible for benefits as provided by law.

(j)(1) In the case of a surviving spouse of a deceased member who had benefits terminated due to remarriage under the provisions of this section, the surviving spouse of the member shall be entitled to a reinstatement of benefits upon the death of any subsequent spouse.

(2) The benefits shall cease immediately upon the death or remarriage of the surviving spouse.

**History.** Acts 1977, No. 793, § 5; 1979, No. 650 § 11; 1981, No. 894, § 3; 1983, No. 637, § 2; 1983, No. 677, § 2; 1985, No. 938, § 12; A.S.A. 1947, § 12-3305; Acts 1991, No. 208, § 5; 1991, No. 463, § 1; 1991, No. 845, § 3; 1993, No. 432, §§ 3, 4; 1997, No. 299, § 6; 1999, No. 325, § 4; 1999, No. 1450, § 1.

**Publisher's Notes.** In reference to the term "passage of this chapter," Acts 1979, No. 650 was signed by the Governor on March 29, 1979, and became effective on July 1, 1979.

**Amendments.** The 1993 amendment substituted "an equal share of one hundred fifty dollars (\$150) monthly" for "fifty dollars (\$50.00) monthly" in (d)(1); in (d)(2), inserted "an" preceding "annuity"

and substituted "one hundred fifty dollars (\$150) monthly" for "one hundred twenty-five dollars (\$125) monthly"; made minor punctuation changes in (d)(3) and (d)(4); and substituted "an equal share of one hundred fifty dollars (\$150) monthly" for "fifty dollars (\$50.00) monthly" in (e).

The 1997 amendment substituted "regular interest as defined by § 24-4-101(26)" for "six percent (6%) compounded interest" in (b)(3).

The 1999 amendment by No. 325 added present (c)(2)(A)(ii); rewrote (c)(2)(B); and made stylistic changes.

The 1999 amendment by No. 1450 inserted "or if the member's ... of the last payroll, then" in (b)(1)(A); and made minor punctuation and stylistic changes.



**24-3-210. Benefit provisions — Payment of annuity balance upon death of retirant and beneficiary.**

(a) If a retirant and his eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions and interest standing to the retirant's credit in the plan at the time of his retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such persons as the retirant shall have nominated by written designation duly executed and filed with the plan.

(b) If no designated person survives the retirant and his beneficiary, the difference shall be paid to the estate of the survivor of the retirant and his beneficiary.

**History.** Acts 1977, No. 793, § 5;  
A.S.A. 1947, § 12-3305.

**24-3-211. [Repealed.]**

**Publisher's Notes.** This section, concerning limitations on benefits to employed retirant, was repealed by Acts 1987, No. 525, § 1. The section was de-

rived from Acts 1977, No. 793, § 5; 1979, No. 650, § 12; 1981, No. 894, § 4; A.S.A. 1947, § 12-3305.

**24-3-212. Benefit provisions — Subjection of annuity rights to process of law.**

(a) The right of a person to an annuity, to the return of accumulated contributions, the annuity itself, any annuity option, any other right accrued or accruing under the provisions of §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, and 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, and 24-3-414, and all moneys belonging to a plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this chapter.

(b) An employer shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

**History.** Acts 1977, No. 793, § 5;  
A.S.A. 1947, § 12-3305.

**24-3-213. Benefit provisions — Inspection of records.**

Any and all records kept by an Arkansas public retirement system, whether required to be kept by law or board policy, shall be open to public inspection as provided in § 25-19-105, except that individual members' records which are kept for the purpose of compiling information for the members' retirement or social security records shall not be open to the public.

**History.** Acts 1977, No. 793, § 5;  
A.S.A. 1947, § 12-3305.

### RESEARCH REFERENCES

**Ark. L. Rev.** Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 37 Ark. L. Rev. 741.

#### **24-3-214. Applicability of benefit provisions.**

(a) The benefit provisions of §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, and 24-3-414 shall be applicable to specified members of the Arkansas Public Employees' Retirement System and the State Police Retirement System.

(b)(1) The benefit provisions of this chapter shall be applicable to each person who has never been a member of a named plan before January 1, 1978, and who is employed on or after January 1, 1978, in a position covered by a named plan and who thereby becomes a member.

(2) In addition, each other member who was actively employed in a position covered by a named plan on June 30, 1991, may elect to become covered by the benefit provisions of this chapter by written application to, and received by, the governing body of the plan before January 1, 1985.

(3)(A)(i) Each other member who was not actively employed in a position covered by a named plan on January 1, 1978, shall become covered by the benefit provisions of this chapter at the time he first becomes so employed after January 1, 1978, unless he elects to become covered by the provisions of his named plan which require member contributions, by written election to, and received by, the governing body of the named plan before the later of January 1, 1986, and six (6) months after he first becomes so employed after January 1, 1978.

(ii) However, if the member so elects benefits requiring member contributions, he shall pay the member contributions from the date of such employment, together with named plan regular interest, from the dates the contributions would normally have been received by the named plan to the dates of actual payment.

(B)(i) The benefits of each member's becoming covered by the benefit provisions of this chapter shall be computed by applying the benefit provisions prescribed by this chapter for all credited service of the person rendered before and after January 1, 1978.

(ii) However, benefit amounts based upon employment before January 1, 1978, shall not be less than benefit amounts computed in accordance with named plan benefit provisions at the time of retirement which require member contributions.

(c)(1) The benefit provisions of §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-

402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, and 24-3-414, including death and disability benefits, shall apply to all credited service rendered before or after the date of election of employees of the Department of Human Services in either the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System.

(2)(A) Employees of the Department of Human Services and employees of the Arkansas Rehabilitation Services of the Department of Workforce Education shall be entitled to the benefit amount computed by applying the benefit provisions prescribed by this chapter for all credited service rendered before and after January 1, 1978, except that benefit amounts based upon employment before January 1, 1978, shall not be less than benefit amounts computed in accordance with benefit provisions in effect December 31, 1977.

(B) On and after January 1, 1993, employees of the Arkansas Rehabilitation Services of the Department of Workforce Education who elected to be covered by the provisions of this subsection and who are still active employees on January 1, 1993, shall be entitled to the benefit amount computed by applying the benefit provisions prescribed by this chapter for all credited service rendered before and after January 1, 1978, except that benefit amounts based upon employment before January 1, 1978, shall be computed in accordance with current benefit provisions in effect for the Arkansas Teacher Retirement System at the time of their retirement.

(3) In computing the benefit under the benefit provisions of this chapter, the final average salary shall be computed upon all service before and after the election of the Arkansas Rehabilitation Services employee as provided in § 24-3-102(8).

(d) Each public retirement system in which the employee has served shall be responsible financially for the benefit amounts payable to the retirant, his survivors, and beneficiaries based upon the ratio of the number of years the employee was a member of that public retirement system to the total number of years the employee was a member of any of the three (3) statewide retirement systems, i.e., the Arkansas Public Employees' Retirement System, State Police Retirement System, and Arkansas Teacher Retirement System.

(e)(1)(A) The benefit provisions of §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, and 24-3-414 shall be administered by the Arkansas Public Employees' Retirement System for the benefit of all employees making the option except state police, which shall be administered by the State Police Retirement System.

(B) The Arkansas Public Employees' Retirement System shall certify monthly the amount of benefits paid hereunder, and the Arkansas Teacher Retirement System shall immediately transfer such amount from its benefit account to the proper account designated by the Arkansas Public Employees' Retirement System.

(2) If an employee of the Department of Human Services who becomes or has become a member of the Arkansas Public Employees'



Retirement System under the provisions of this section leaves employment with the Department of Human Services and becomes employed in another position covered by the Arkansas Teacher Retirement System, his credited service, both before and after his service under this chapter, shall be subject to the benefit provisions of §§ 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716.

(3) The member shall be eligible to establish reciprocity under the provisions of §§ 24-2-401 — 24-2-405.

(4) Members of the Arkansas Teacher Retirement System who have not elected to pay contributions to that system on full salary shall not be eligible to elect to become covered by the benefit provisions of this chapter unless they first make written application with the Arkansas Teacher Retirement System for full salary coverage for all salaries received from July 1, 1969, until the date of making the election to come under the provisions of this chapter and paying to the system the amount of the additional contributions, plus regular interest, for full salary credited service.

(f) For a member electing coverage by the benefit provisions of this chapter:

(1) Benefits payable in the event a member dies before retirement shall be as provided in this chapter, except that a benefit cannot be less than the benefit which would have been paid if the member had died January 1, 1978;

(2) Optional forms of annuity available on the total named plan annuity shall be the optional forms provided in this chapter; and

(3) The postretirement increase provisions applicable to the total named plan annuity shall be the postretirement increase provisions provided in this chapter.

(g) Any member of a named plan employed prior to January 1, 1978, who does not elect in writing to become covered by the benefit provisions of this chapter shall not be covered by the benefit provisions of this chapter but shall remain in the plan he was in January 1, 1978, and shall continue to make regular contributions as provided in the named plan.

(h) Any member of a named plan who elects in writing to become covered by the benefit provisions of this chapter shall be entitled to a refund of any accumulated contributions paid on or after January 1, 1978, and prior to the date of election.

**History.** Acts 1977, No. 793, § 3; 1979, No. 650, § 4; 1980 (1st Ex. Sess.), No. 58, § 1; 1981, No. 482, § 1; 1981, No. 894, § 1; 1983, No. 677, § 4; 1985, No. 938, § 1; A.S.A. 1947, § 12-3303; Acts 1993, No. 432, § 5; 1993, No. 1091, § 1.

**Publisher's Notes.** Acts 1979, No. 650, § 4, provided, in part, that employees of the Department of Human Services and its various divisions, including Rehabilitation Services, would have until January

1, 1985, to elect to be covered by the benefit provisions of this chapter.

Acts 1993, No. 574, § 1, effective July 1, 1993, transferred the Division of Rehabilitation Services of the Department of Human Services to the Division of Vocational and Technical Education of the Department of Education, and renamed the division as the Arkansas Rehabilitation Services.

Acts 1997, No. 803, which created the

Department of Workforce Education, abolished the Division of Vocational and Technical Education of the Department of Education, and transferred the Arkansas Rehabilitation Services to the newly created Department of Workforce Education.

**Amendments.** The 1993 amendment

by No. 432 added the second sentence in (e)(1); and inserted "Arkansas" prior to "Teacher Retirement System" in both (e)(2) and (e)(4).

The 1993 amendment by No. 1091 added (c)(2)(B).

### **24-3-215. Conversion from contributory to noncontributory plan — Extension of time.**

Any person who, under §§ 24-3-102, 24-3-201 — 24-3-203, 24-3-206, 24-3-207, 24-3-209, 24-3-214, 24-3-302, and 24-3-303, or any other act, was authorized to convert from the contributory plan of the Arkansas Public Employees' Retirement System to the noncontributory plan of the Arkansas Public Employees' Retirement System prior to January 1, 1985, may convert from the contributory plan to the noncontributory plan at any time prior to June 30, 1996, in the manner prescribed by law for conversion before January 1, 1985.

**History.** Acts 1985, No. 310, § 1; A.S.A. 1947, § 12-3303.1; Acts 1995, No. 666, § 1.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409,

24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

**Amendments.** The 1995 amendment substituted "1996" for "1991" near the end.

**Cross References.** Classification of members, § 24-2-302.

### **24-3-216. Early retirement incentives — State employees.**

(a) In addition to the provisions of § 24-3-201(e)(1):

(1)(A) A state employee who is an active member of the Arkansas Public Employees' Retirement System on March 12, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the State of Arkansas immediately prior to his retirement date or a state police officer who is an active member of the State Police Retirement System on March 12, 1987, and who is vested for a full age and service annuity and has credit for three (3) consecutive actual years of service with the Department of Arkansas State Police immediately prior to his retirement date, may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(F) of this section, provided he retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment with the Department of Arkansas State Police or in which the state is the employer.

(B)(i) In addition to his regular annuity, the named plan from which the employee retires will pay the cost of the state employee or the state police officer member's health and basic life insurance which he is eligible to continue as a retirant with the State Employ-

ees Group Insurance Plan or with the Arkansas State Police Employee Health Plan, as the case may be.

(ii) This payment is to be for the retirant's coverage only and to be from the date of his retirement until the retirant's death.

(C) For the purpose of computing the state employee or the state police officer member's annuity, his highest annual salary will be substituted for his final average pay.

(D) For the purpose of computing the state employee or the state police officer member's annuity, he will receive additional service credit equal to ten percent (10%) of his existing service credit.

(E)(i) For the purpose of computing the state employee or the state police officer member's annuity, the social security offset will not be used, notwithstanding his annuity plus his social security primary benefit may exceed his final average pay.

(ii) His annuity will be equal to one and eight-tenths percent (1.8%) of his final average pay multiplied by the number of years and fraction of a year of credited service with the system, provided a state police officer member's annuity will not be less than the amount provided by § 24-6-214(a).

(F)(i) A state employee or state police officer member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System as defined in subdivision (a)(3) of this section or the employer's accumulation account of the State Police Retirement System, depending upon from which system the member retires;

(2)(A) A state employee who is an active member of the Arkansas Public Employees' Retirement System on March 12, 1987, and who has credit in the system for three (3) consecutive actual years of service with the State of Arkansas immediately prior to his retirement date or a state police officer who is an active member of the State Police Retirement System on March 12, 1987, and who has credit for three (3) consecutive actual years of service with the Department of Arkansas State Police immediately prior to his retirement date, and who has credit for not less than ten (10) actual years of service and has attained the age for an early reduced annuity or credit for not less than twenty-eight (28) actual years of service, regardless of age, may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(G) of this section, provided he retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment with the Department of Arkansas State Police or in which the state is the employer.

(B)(i) The named plan from which the member retires will pay the cost of the state employee or the state police officer member's health



and basic life insurance which he is eligible to continue as a retirant with the State Employees Group Insurance Plan or with the Arkansas State Police Employee Health Plan, as the case may be.

(ii) This payment is to be for the retirant's coverage only and is to be paid from the date of his retirement until the retirant has attained age sixty-five (65).

(C) For the purpose of computing the state employee or the state police officer member's annuity, his highest annual salary will be substituted for his final average pay.

(D) If the state employee or state police officer member is eligible for an early reduced annuity as provided in § 24-3-207(b) and he is within two (2) years of his full annuity age, then his annuity will not be reduced because of early retirement.

(E) If a state employee member has attained his full annuity age as provided by § 24-3-102(12)(A) and he is within two (2) years of attaining the credited service requirement for a full annuity, then his annuity will not be reduced because of early retirement.

(F) For the purpose of computing the state employee or state police officer member's annuity, the social security offset will not be used, notwithstanding his annuity plus his social security primary benefit may exceed his final average pay. His annuity will be equal to one and eight-tenths percent (1.8%) of his final average pay multiplied by the number of years and fraction of a year of credited service with the system, provided a state police officer member's annuity will not be less than the amount provided by § 24-6-214(a) if subdivision (a)(2)(D) of this section is selected or § 24-6-214(b)(1) if subdivision (a)(2)(D) of this section is not selected.

(G)(i) A state employee or state police officer member may receive a retirement bonus which is a lump-sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System as defined in subdivision (a)(3) of this section or the employer's accumulation account of the State Police Retirement System, depending upon from which system the member retires.

(3)(A) "Contingency reserve fund" means that amount of the Arkansas Public Employees' Retirement System's assets at cost determined by the annual actuarial valuation to be in excess of the total system benefit liabilities.

(B) There shall be annual transfers between the employees' accumulation account and the contingency reserve fund as necessary to recognize the actuarially determined balance of that fund.

(4)(A) For those members who retire pursuant to the provisions of this section, the amount paid by the State Police Retirement System as the cost of the employee's health and basic life insurance shall not exceed the amount of the employer's contribution for the coverage on the date of the employee's retirement and may be reduced at the time the employee qualifies under medicare or medicaid programs.

(B) Any future increase in the cost of this coverage shall be borne by the employee and not by the system from which the employee retired.

(b)(1) No position being vacated as a result of an employee retiring pursuant to the provisions of this section shall be filled without the written approval of the Governor or the Chief Fiscal Officer of the State.

(2) For those state-elected constitutional officers and members of the General Assembly who, as a member of the State Division of the Arkansas Public Employees' Retirement System, would qualify by meeting all the requirements of this section to retire under the early retirement incentives in this section by January 1, 1988, the time period in which they may elect to retire under this section shall be extended to the last day of their current term for which they are serving.

(3)(A) Nothing in this section shall be construed to allow an elected official to continue to accumulate salary earnings in the system upon which his final annuity shall be based.

(B) An elected official opting to retire under subdivision (b)(2) of this section shall have all contributions to the system terminated on December 31, 1987.

(4) Any member of the Arkansas Public Employees' Retirement System who qualifies by meeting all the requirements of this section to retire under the early retirement incentives in this section by January 1, 1988, and who suffered from a work-related injury for which benefits were paid under compensation laws after July 1, 1986, and before October 1, 1986, and whose final annuity would otherwise be reduced due to the reduced salary and lost credited service, shall be entitled to obtain credited service for the actual time period of reduced salary by paying to the system prior to December 31, 1987, the amount of money both he and his employer would have contributed on his behalf plus interest at the rate of six percent (6%) per annum calculated from the date the contributions would have been made until the date he makes payment to the system.

**History.** Acts 1987, No. 187, §§ 3, 4, 8, 9; 1987 (1st Ex. Sess.), No. 17, § 1.

**A.C.R.C. Notes.** Acts 1989, No. 446, § 1 provided: "(a) The Public Employees Retirement System Board of Trustees is authorized to approve the retirement of an eligible member after the effective date of this act under the provisions of Act 187 or Act 717 of 1987 if the board determines that all of the following conditions have been met:

"(1) As of January 1, 1988, the member was eligible to receive retirement benefits and retirement incentives authorized by Act 187 or Act 717 of 1987;

"(2) The eligible member thought his benefits would be less than he was actu-

ally entitled to due to an incorrect benefit estimate supplied him by the Public Employees Retirement System, provided that the correct benefit must represent an increase of at least 40% over the incorrect estimate;

"(3) Based on the incorrect benefit estimate supplied to him by the Public Employees Retirement System, the eligible member failed to apply for early retirement under the provisions of Act 187 or Act 717 of 1987;

"(4) The eligible member applies to the Public Employees Retirement System for retirement benefits and retirement incentives under Act 187 or Act 717 of 1987 prior to July 1, 1989.

“(b) The Public Employees Retirement System Board of Trustees is authorized by this act to approve an increase in benefits for an eligible member who retired under Act 187 or Act 717 of 1987 and who mistakenly relied on an incorrect benefit estimate supplied to him if the board determines that all of the following conditions have been met:

“(1) The member thought his benefit would be more than he or she was actually entitled to due to an incorrect benefit estimate supplied to him by the Public Employees Retirement System, provided that the incorrect benefit estimate must represent an increase of at least fifteen percent (15%) over his or her actual benefit;

“(2) The member retired under Act 187 or Act 717 of 1987 and relied on the incorrect benefit estimate as the basis for his or her retirement decision;

“(3) The member applies to the Public

Employees Retirement System for the increase in benefits prior to July 1, 1989.”

Acts 1989, No. 446, § 2, provided: “Any eligible member retiring under the provisions of Act 187 or Act 717 of 1987 pursuant to this act will be entitled to the retirement benefits and retirement incentives they would have been eligible to receive had they retired effective January 1, 1988.”

References to “this chapter” in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, 24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

**Publisher’s Notes.** Acts 1987 (1st Ex. Sess.), No. 17, § 3, provided that the intent of the act was to give fair and equal treatment to all employees and all elected officials under the Early Retirement Incentive Act.

### **24-3-217. Early retirement incentives — County employees.**

(a) In addition to the provisions of § 24-3-201(e):

(1)(A) A county employee who is an active member of the County Division of the Arkansas Public Employees’ Retirement System on April 7, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the county immediately prior to his retirement date may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(E) of this section, provided he retires during the period beginning with April 7, 1987, through January 1, 1988, inclusive. Provided further, an employee who participates in this retirement incentive program is not eligible to accept further employment with the county or in which any other county is the employer.

(B) For the purpose of computing the county employee member’s annuity, his highest annual salary will be substituted for his final average pay.

(C) For the purpose of computing the county employee member’s annuity, he will receive additional service credit equal to ten percent (10%) of his existing service credit.

(D)(i) For the purpose of computing the county employee member’s annuity, the social security offset will not be used, notwithstanding his annuity plus his social security primary benefit may exceed his final average pay.

(ii) His annuity will be equal to one and eight-tenths percent (1.8%) of his final average pay multiplied by the number of years and fraction of a year of credited service with the system.

(E)(i) A county employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final



annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System; (2)(A) A county employee who is an active member of the County Division of the Arkansas Public Employees' Retirement System on April 7, 1987, who has credit in the system for three (3) consecutive actual years of service with the county immediately prior to his retirement date, and who has credit for not less than ten (10) actual years of service and has attained the age for an early reduced annuity or credit for not less than twenty-eight (28) actual years of service regardless of age may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(F) of this section, provided he retires during the period beginning with April 7, 1987, through January 1, 1988, inclusive. Provided further, an employee who participates in this retirement incentive program is not eligible to accept further employment with the county or in which another county is the employer.

(B) For the purpose of computing the county employee member's annuity, his highest annual salary will be substituted for his final average pay.

(C) If the county employee member is eligible for an early reduced annuity as provided in § 24-3-207(b) and he is within two (2) years of his full annuity age, then his annuity will not be reduced because of early retirement.

(D) If a county employee member has attained his full annuity age as provided in § 24-3-102 and he is within two (2) years of attaining the credited service requirement for a full annuity, then his annuity will not be reduced because of early retirement.

(E)(i) For the purpose of computing the county employee member's annuity, the social security offset will not be used, notwithstanding his annuity plus his social security primary benefit may exceed his final average pay.

(ii) His annuity will be equal to one and eight-tenths percent (1.8%) of his final average pay multiplied by the number of years and fraction of a year of credited service with the system.

(F)(i) A county employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System.

(b) No position being vacated as a result of a county employee retiring pursuant to the provisions of this section shall be filled without the approval by resolution of the quorum court.

(c) For those elected county constitutional officers who, as members of the County Division of the Arkansas Public Employees' Retirement System, would qualify by meeting all the requirements in subsection (a) of this section to retire under the early retirement incentives in

subsection (a) of this section by January 1, 1988, the time period in which they may elect to retire shall be extended to the last day of their current term for which they are serving.

(d)(1) Nothing in this section shall be construed to allow an elected official to continue to accumulate salary earnings in the system upon which his final annuity shall be based.

(2) An elected official opting to retire under subsection (c) of this section shall have all contributions to the system terminated on December 31, 1987.

(e)(1) As used in this section, "contingency reserve fund" means that amount of the Arkansas Public Employees' Retirement System's assets at cost determined by the annual actuarial valuation to be in excess of the total system benefit liabilities.

(2) There shall be annual transfers between the employee's accumulation account and the contingency reserve fund as necessary to recognize the actuarially determined balance of that fund.

(f) Any elected official who qualifies for retirement incentives under this section shall forfeit all retirement benefits if he knowingly and willfully misstates the amount of his credited service to the retirement system.

**History.** Acts 1987, No. 717, §§ 2-4; 1987 (1st Ex. Sess.), No. 17, § 2; 1991, No. 1141, § 1.

**A.C.R.C. Notes.** For provisions authorizing the Public Employees' Retirement System Board of Trustees to approve the retirement of an eligible member, see A.C.R.C. Notes, § 24-3-216.

As to eligible members retiring under the provisions of Act 187 or Act 717 of 1987, see A.C.R.C. Notes, § 24-3-216.

References to "this chapter" in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210,

24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409, 24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

**Publisher's Notes.** Acts 1987 (1st Ex. Sess.), No. 17, § 3, provided that the intent of the act was to give fair and equal treatment to all employees and all elected officials under the Early Retirement Incentive Act.

Acts 1991, No. 1141, § 1, is also codified as § 24-4-733(f).

## 24-3-218. Maximum benefit limitation.

(a) Notwithstanding any other provision of this chapter, benefits paid under the provisions of this chapter shall not exceed the limitations of Section 415 of the Internal Revenue Code that are applicable to governmental retirement plans.

(b)(1) The board of trustees is hereby empowered and authorized to promulgate all necessary rules and regulations to implement the limitations of Section 415 of the Internal Revenue Code.

(2) The rules and regulations adopted by the board of trustees pursuant to this section shall be amended to reflect any changes in the content or application of Section 415 of the Internal Revenue Code enacted by the Congress or promulgated by the Internal Revenue Service.

**History.** Acts 1995, No. 738, § 2.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404 — 24-3-406, 24-3-408, 24-3-409,

24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

**U.S. Code.** Section 415 of the Internal Revenue Code, referred to in this section, is codified as 26 U.S.C. § 415.

### SUBCHAPTER 3 — CREDITED SERVICE

#### SECTION.

24-3-301. Credited service generally.

24-3-302. Credited service — Cessation of employment — Reemployment.

#### SECTION.

24-3-303. Credited service — Reciprocity.

24-3-304. Public safety officer.

**Effective Dates.** Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to maintain employee morale and a stable and improved retirement system commensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977.”

Acts 1979, No. 650, § 17: July 1, 1979. Emergency clause provided: “It is hereby found and determined by the General Assembly that various provisions of Act 793 need further clarification in order for their meaning to be comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1979.”

Acts 1981, No. 482, § 5: Mar. 13, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that certain members or former members of the Arkansas State Police Retirement System are unable to receive credit for service with that System under reciprocal laws with other State sup-

ported retirement systems. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1981, No. 894, § 9: Mar. 28, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that various provisions of Act 793 of 1977, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 677, § 10: Mar. 22, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that various provisions of the Public Employees Retirement System law need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 679, § 4: July 1, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that the retirement benefits payable under reciprocity by preceding systems are inadequate and unfair to certain retirees having service in more than one



state retirement system. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1989, No. 160, § 6: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is not clear in its meaning and could result in inequities; and that this should be remedied immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 845, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the effectiveness of this Act on July 1, 1991 is essential to the operation of the Arkansas Public Employees' Retirement System and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1995, No. 949, § 7: Apr. 6, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the Arkansas Judicial Retirement System is not a reciprocal system with other state supported retirement systems; that this creates an inequitable situation for public officials are members of the Judicial Retirement System and who later become members of another state supported retirement system; and that it is necessary to change the laws of Arkansas to correct this inequity. Therefore, in order to promote equity between the public retirement systems of Arkansas, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1356, § 6: July 1, 1997.

Acts 1997, No. 485, § 12: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that public safety members for the Public Employees' Retirement System earn credit at one and one-half times the normal rate of service credit; that the dollar cost to the System of this service credit is too expensive and is escalating with the addition of other groups of employees as public safety members; and that it is necessary to restrain the future use and costs to the System of this service credit and to implement this act at the beginning of the States' fiscal year. Therefore, in order to reduce the financial burden on the Public Employees Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 857, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the alternate retirement plans for the state colleges and universities and the state's vocational-technical schools are not reciprocal systems with other state supported retirement systems; that this creates an inequitable situation for the educators and administrators who are members of these alternative retirement systems and who later become members of another state supported retirement system; and that it is necessary to change the laws of Arkansas to correct this inequity and have it effective at the beginning of the state's fiscal year. Therefore, in order to promote equity between the public retirement systems of Arkansas and promote sound fiscal administration, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the

effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1587, § 6: July 1, 1999.  
Emergency clause provided: "It is hereby

found and determined by the Eighty-second General Assembly that for the effective administration of the system this act should become effective on July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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### **24-3-301. Credited service generally.**

(a) The governing body of each named plan shall establish the amounts of service to be credited its members subject to the provisions of subsection (b) of this section.

(b)(1) Employment service by a person who was employed prior to July 1, 1997, as a public safety member shall be credited at one and one-half (1½) times the regular rate for crediting service, and employment service by persons employed on and after July 1, 1997, shall be credited at the regular rate for crediting service, except that at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-3-201(a) and (b), 24-3-206(a), 24-3-207(a), and 24-3-208, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-3-209.

(2)(A)(i) Employment as Governor by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited as service at three (3) times the regular rate for credited service.

(ii) Employment as Governor by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(B) However, at least four (4) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-3-201(a) and (b), 24-3-206(a), 24-3-207(a), and 24-3-208, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-3-209.

(3)(A)(i) Employment as an elected state constitutional officer by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited at two and one-half (2½) times the regular rate for crediting service.

(ii) Employment as an elected state constitutional officer by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(B) However, at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-3-201(a) and (b), 24-3-206(a), 24-3-207(a), and 24-3-208, and at least

five (5) years of actual service shall be required to meet the eligibility requirements of § 24-3-209.

(4)(A) Employment as a member of the General Assembly shall be credited at the regular rate for crediting service, except that at least ten (10) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-3-201(a) and (b), 24-3-206(a), 24-3-207(a), and 24-3-208, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-3-209.

(B) A member of the General Assembly who at any time has served at least six (6) months during a two-year term in the General Assembly shall be credited with no more than one (1) year's actual service.

(5) Employment as an elected public official other than Governor or an elected state constitutional officer or a member of the General Assembly or an elected public official under the state division of the system shall be credited as service at two (2) times the regular rate for crediting service, except that at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-3-201(a) and (b), 24-3-206(a), 24-3-207(a), and 24-3-208, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-3-209.

(6)(A) Employment as an elected public official under the state division of the system other than Governor or an elected state constitutional officer or a member of the General Assembly by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited as service at two (2) times the regular rate for crediting service, except that at least five (5) years of actual service shall be required to meet the retirement eligibility requirements of §§ 24-3-201(a) and (b), 24-3-206(a), 24-3-207(a), and 24-3-208, and at least five (5) years of actual service shall be required to meet the eligibility requirements of § 24-3-209.

(B) Employment as an elected public official under the state division of the system other than Governor or an elected state constitutional officer or a member of the General Assembly by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(c) As used in this section, "elected state constitutional officer" means the Lieutenant Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, and Commissioner of State Lands.

**History.** Acts 1977, No. 793, § 4; 1981, No. 894, § 2; 1983, No. 677, § 1; A.S.A. 1947, § 12-3304; Acts 1991, No. 208, § 6; 1991, No. 845, § 1; 1995, No. 1356, § 5; 1997, No. 485, § 7; 1999, No. 1587, § 1.

**Amendments.** The 1995 amendment

redesignated former (b)(3)(B), (b)(4) and (b)(5) as (b)(4)(B), (b)(5) and (c), respectively; inserted present (b)(4)(A); substituted "five (5) years" for "ten (10) years" in (b)(1), (3) and present (5); inserted "or a member of the General Assembly" in



present (b)(5); and substituted “Auditor of State, Treasurer of State” for “State Auditor, State Treasurer” in present (c).

The 1997 amendment, in (b)(1), inserted “service by a person who was employed prior to July 1, 1997” and “and employment service by persons employed on and after July 1, 1997 shall be credited at the regular rate for crediting service.”

The 1999 amendment redesignated former (b)(2) as present (b)(2)(A) and (b)(2)(B), and former (b)(3) as present (b)(3)(A) and (b)(3)(B); added present

(b)(2)(A)(ii) and (b)(3)(A)(ii); inserted “by a person first elected to a public office covered by the Arkansas Public Employees’ Retirement System prior to July 1, 1999” in present (b)(2)(A)(i); substituted “However” for “except that” in present (b)(2)(B) and (b)(3)(B); inserted “by a person first elected to a public office covered by Arkansas Public Employees’ Retirement System prior to July 1, 1999” in (b)(3)(A)(i); inserted “or an elected public official under the state division of the system” in (b)(5); added (b)(6); and made stylistic changes.

### **24-3-302. Credited service — Cessation of employment — Reemployment.**

(a)(1)(A) When a member is no longer employed in a position covered by a named plan, he shall thereupon cease to be a member.

(B) Except as otherwise provided in this chapter, upon termination of his membership, a member’s credited service is forfeited.

(2) If the person is not a retirant and becomes reemployed in a position covered by a named plan, he shall become a member of the named plan, and his credited service which did not require member contributions and then was forfeited by him at termination of covered employment shall be restored to his credit.

(b)(1) Upon a member’s retirement, he shall cease to be a member.

(2) Except as provided otherwise in this chapter, he shall not again become a member.

(c) Should a former member entitled to a deferred annuity provided for in § 24-3-206(b) become employed in a position covered by a named plan before becoming a retirant, he shall thereupon cease to be entitled to a deferred annuity, and he shall become a member with his last credited service reactivated and to be increased by the employment.

**History.** Acts 1977, No. 793, § 4; 1979, No. 650, §§ 5, 6; A.S.A. 1947, § 12-3304; Acts 1989, No. 160, § 1.

### **24-3-303. Credited service — Reciprocity.**

(a)(1) Upon the retirement of a member whose credited service results from employment covered by:

(A) More than one (1) named plan;

(B) The Arkansas Teacher Retirement System;

(C) The Arkansas State Highway Employees’ Retirement System;

(D) The Arkansas Judicial Retirement System;

(E) An alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq.; or

(F) The Arkansas Local Police and Fire Retirement System, the amount of his annuity shall be based upon his total credited service in force at the time of his retirement, exclusive of any minimums.

(2) Each named plan or retirement system shall be responsible financially for only that portion of the annuity based upon the credited service in the plan or system.

(3)(A) The final average compensation on which benefits shall be determined shall be based on the period of total credited service for:

- (i) The named plans;
- (ii) The Arkansas Teacher Retirement System;
- (iii) The Arkansas State Highway Employees' Retirement System; and

(iv) The Arkansas Local Police and Fire Retirement System, with each plan or system computing the final average compensation by the method as determined by its laws.

(B) Compensation for credited service in the Arkansas Judicial Retirement System or an alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq. shall not be used to determine final average compensation.

(4) The final average compensation for persons receiving benefits from the Arkansas State Highway Employees' Retirement System shall be based on the final average compensation at the date of termination of employment covered by that system.

(5) The benefit program to be applied to each portion of credited service shall be the benefit program in effect in each plan or system at the time of retirement.

(b)(1) Upon the retirement on disability or death-in-service of a member of either:

- (A) The Arkansas Public Employees' Retirement System;
- (B) The Arkansas Teacher Retirement System;
- (C) The Arkansas State Highway Employees' Retirement System;
- (D) The Arkansas Judicial Retirement System;
- (E) The State Police Retirement System;
- (F) An alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq.; or

(G) The Arkansas Local Police and Fire Retirement System, who has credited service in more than one (1) of the plans, an annuity shall be payable based upon his total credited service with all systems in force at the time of retirement, with each system being responsible for the payment of such disability or death-in-service benefits as are provided by the applicable provisions of each system's laws or plan's provisions.

(2) If the greatest benefit payable to a survivor is a minimum percentage of the deceased member's final pay or a minimum dollar amount, then each reciprocal system that has a minimum benefit provision in its plan shall only pay a proportionate share of the minimum amount based on the ratio of service in the system to the total service in all reciprocal systems.

(3) A member who dies in service while a member of one (1) reciprocal system shall be considered as currently employed by all systems in which the member has credited service at the time of death.

(4) If a member has service credit in an alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq., disability and death-in-service benefits shall be contingent on provision of those benefits' having been provided by the alternate retirement plan and having been selected by the member as a benefit.

(c) Any person retiring on or after July 1, 1982, with credited service in more than one (1) reciprocal system shall have his benefits recomputed based on the provisions of this section.

(d) It is the intent of this section to provide reciprocal service credits, as provided by §§ 24-2-401 — 24-2-405, between contributory and noncontributory members of:

(1) The Arkansas Public Employees' Retirement System;

(2) The Arkansas Teacher Retirement System;

(3) The Arkansas Judicial Retirement System;

(4) The Arkansas State Highway Employees' Retirement System;

(5) The State Police Retirement System;

(6) An alternate retirement plan for a college, university, or the Department of Higher Education provided for under § 24-7-801 et seq. or for a vocational-technical school or the Department of Workforce Education provided for under § 24-7-901 et seq.; and

(7) The Arkansas Local Police and Fire Retirement System.

(e) A member of the Arkansas Public Employees' Retirement System who is receiving a retirement annuity from another reciprocal system as defined in subsection (d) of this section shall not be eligible to use the reciprocal provisions of this section or the reciprocal provisions of §§ 24-2-401 — 24-2-405 to determine the benefit payable by the Arkansas Public Employees' Retirement System.

**History.** Acts 1977, No. 793, § 4; 1979, No. 650, § 7; 1981, No. 482, § 2; 1983, No. 679, § 3; A.S.A. 1947, § 12-3304; Acts 1995, No. 949, § 3; 1997, No. 857, § 3; 1999, No. 325, § 5; 1999, No. 537, § 3.

**Amendments.** The 1995 amendment inserted the first occurrence of "Arkansas" and "or the Arkansas Judicial Retirement System" in (a)(1); inserted the first occurrence of "Arkansas" in (a)(3)(A); added (a)(3)(B); inserted "the Arkansas Judicial Retirement System" and deleted "Arkansas" preceding "State Police Retirement" in (b)(1) and (d); and made stylistic changes.

The 1997 amendment inserted "or an alternate retirement plan under §§ 24-7-801, et seq., or §§ 24-7-901, et seq." in (a)(1), (a)(3)(B), and (b)(1); added "or plan's provisions" in (b)(1); added (b)(4); and added the language following "State Police Retirement System" at the end of (d).

The 1999 amendment by No. 325 added (e).

The 1999 amendment by No. 537 inserted (a)(1)(F), (b)(1)(G) and (d)(7); in (a)(3)(A), inserted (a)(3)(A)(iv) and made a related change; and made stylistic changes.

## 24-3-304. Public safety officer.

A public safety officer who receives or has received credited service at one and one-half (1½) times the regular rate for crediting service may change employers and continue to receive credited service at one and one-half (1½) times the regular rate for crediting service, provided:

(1) The person is employed as a public safety officer; and



(2) The employer provides public safety officers credited service at one and one-half (1½) times the regular rate for crediting service.

**History.** Acts 1999, No. 868, § 1.

**A.C.R.C.** References to "this chapter" in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301 — 24-3-303, 24-3-401, 24-3-402, 24-3-404

— 24-3-406, 24-3-408, 24-3-409, 24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

## SUBCHAPTER 4 — INVESTMENTS

### SECTION.

- 24-3-401. Investment authority and limitations generally.
- 24-3-402. Investment authority and limitations — Permissible investments.
- 24-3-403. [Repealed.]
- 24-3-404. Investment authority and limitations — Default setoff.
- 24-3-405. Investment authority and limitations — Conflict of interest.
- 24-3-406. Investment authority and limitations — Fidelity bonds.
- 24-3-407. [Repealed.]
- 24-3-408. Investment authority and limitations — Custodianship of assets.
- 24-3-409. Investment authority and limitations — Trust account.
- 24-3-410 — 24-3-413. [Repealed.]
- 24-3-414. Investment authority and limitations — Arkansas-related investments.

### SECTION.

- 24-3-415. Registration of securities in name of nominee — Powers and duties of nominee.
- 24-3-416. [Repealed.]
- 24-3-417. Prudent investor rule.
- 24-3-418. Standard of care — Portfolio strategy — Risk and return objectives.
- 24-3-419. Diversification.
- 24-3-420. Duties at inception of trusteeship.
- 24-3-421. Loyalty.
- 24-3-422. Impartiality.
- 24-3-423. Investment costs — Limitations on investment authority.
- 24-3-424. Reviewing compliance.
- 24-3-425. Delegation of investment and management functions.
- 24-3-426. Language invoking standard of subchapter.

**Publisher's Notes.** Acts 1977, No. 793, § 11, provided in part that, effective July 1, 1977, § 24-2-201 et seq. would apply only to investments by boards of trustees of public employees retirement systems of political subdivisions of the state, and would not apply to the Arkansas State Highway Employees' Retirement System, the Arkansas Public Employees' Retirement System, the State Police Retirement System, and the Teacher Retirement System, since the investment provisions of this chapter were intended to be the sole and exclusive method and procedure by which investments of the four named retirement systems may be made. The section further provided that the authority of public retirement systems to invest their funds in savings and loan associations

savings accounts as authorized in § 23-37-512, in water and air pollution revenue bonds as authorized in § 8-5-312, in public facility board bonds as authorized in § 14-137-118, and in University of Arkansas Law School Building Bonds as authorized in § 6-64-615, shall be construed to authorize the making of investments in those funds and accounts only in accordance with the procedures set forth in this chapter with respect to investments made by the four named retirement systems covered by the provisions of this chapter.

**Effective Dates.** Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to

maintain employee morale and a stable and improved retirement system commensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 522, § 5: Mar. 22, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that investment of State Retirement Systems' funds at the maximum rate of return consistent with standards of safety is a desirable goal; that additional investment alternatives and other appropriate investment practices will materially enhance investment income of the various State Retirement Systems; that additional investment income will advance the financial integrity of State Retirement Systems; and that State Retirement Systems are immediately in need of this additional investment income. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 495, § 9: Mar. 16, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that continuous inflation is making it very difficult for state retirement systems to earn an adequate rate of return on investments and that additional opportunities to make authorized investments which will produce a greater return with minimal risk are necessary and desirable. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 434, § 5: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that continuous inflation is making it very difficult for state retirement systems to earn an adequate rate of return on investments and that additional

opportunities to make authorized investments which will produce a greater return with minimal risk are necessary and desirable. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 678, § 3: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Section 7 of Act 793 of 1977 is unclear concerning the investment authority of the aforementioned Arkansas Retirement Systems and that investment opportunities for such retirement systems may be lost unless this Act shall become effective immediately upon passage. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 412, § 9: Mar. 19, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the immediate amendment of investment policies applicable to all Arkansas public employee retirement systems is essential to foster economic growth and stability of Arkansas while maintaining state employee morale through stable and improved retirement systems. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect after its passage and approval."

Acts 1989, No. 153, § 4: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly that the Amendments herein are essential to the continued operation of the Arkansas Retirement Systems; therefore, an emergency is declared to exist, and this Act shall be in full force and effect from and after July 1, 1989."

Acts 1989, No. 302, § 6: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly in the State of Arkansas that the amendments herein are essential to the continued operation of the Arkansas retirement systems. There-

fore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1989, No. 652, § 14: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1991, No. 222, § 5: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the amendments herein are essential to the continued operation of the Arkansas Retirement Systems. Therefore, an emergency is hereby declared to exist and this act being necessary for the

immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991.”

Acts 1999, No. 555, § 17: Mar. 12, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the state needs to assure that the system is able to provide the best possible benefits, including safe, adequate, and affordable facilities, for the system’s members and that several changes in, and clarification of, existing laws are immediately necessary in order for the system to continue to efficiently, effectively and timely administer the member’s retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

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### **24-3-401. Investment authority and limitations generally.**

(a) All investments of named plans covered by this subchapter shall be in strict compliance with the provisions of this subchapter.

(b) The term “trust” as used in this subchapter refers to the following Arkansas retirement systems:

- (1) The State Police Retirement System;
  - (2) The Arkansas Public Employees’ Retirement System;
  - (3) The Arkansas Teacher Retirement System;
  - (4) The Arkansas State Highway Employees’ Retirement System;
- and
- (5) The Arkansas Judicial Retirement System.

(c) The term “trustees” as used in this subchapter refers to boards of trustees of the above referenced systems.

**History.** Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307; Acts 1997, No. 1194, § 1.

**Amendments.** The 1997 amendment added the last sentence.



**24-3-402. Investment authority and limitations — Permissible investments.**

(a) The boards of trustees of the State Police Retirement System, the Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement System, the Arkansas State Highway Employees' Retirement System, and the Arkansas Judicial Retirement System shall have full power to invest and reinvest the moneys of the respective systems and to hold, purchase, sell, assign, transfer, or dispose of any of the investments so made as well as the proceeds of the investments and moneys.

(b) However, the investments and reinvestments shall only be made in accordance with the prudent investor rule set forth in this subchapter.

**History.** Acts 1977, No. 793, § 7; 1981, No. 495, §§ 1, 2; 1983, No. 434, § 1; 1983, No. 678, § 1; 1985, No. 412, § 1; A.S.A. 1947, § 12-3307; Acts 1997, No. 1194, § 2.

**Amendments.** The 1997 amendment substituted "this subchapter" for "§ 24-3-411" in (b).

**24-3-403. [Repealed.]**

**Publisher's Notes.** This section, concerning investment authority and limitations and required recommendation, was repealed by Acts 1997, No. 1194, § 7. The

section was derived from Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307; Acts 1989, No. 302, § 1.

**24-3-404. Investment authority and limitations — Default setoff.**

(a) In the event of default in payment of the principal or interest of any investment obligation held by any state retirement system where the issuer of the obligation receives moneys from the state, the default shall be certified by the board of the respective system to the Treasurer of State.

(b) He shall withhold all moneys due the issuer from the state until the default, together with regular interest thereon, is satisfied.

**History.** Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307.

**24-3-405. Investment authority and limitations — Conflict of interest.**

Except as to the rights of a member, retirant, or beneficiary, no trustee and no officer or employee of the board of any state retirement system shall have any interest, directly or indirectly, in the gains or profits of any investment made by the respective board; nor shall any retirement system trustee, officer, or employee, directly or indirectly for himself or as an agent, in any manner use the assets of the systems except to make such current and necessary payments as are authorized by the respective boards, nor shall any of them become an endorser or

surety or, in any manner, an obligor for moneys loaned by or borrowed from any of the respective systems.

**History.** Acts 1977, No. 793, § 7;  
A.S.A. 1947, § 12-3307.

#### **24-3-406. Investment authority and limitations — Fidelity bonds.**

(a) The boards of trustees of the respective retirement systems shall provide for a one million dollar (\$1,000,000) blanket fidelity bond covering the employees of the systems or such others as may be responsible for administering the funds.

(b) The boards may pay the premiums for the bond from funds of the systems.

**History.** Acts 1977, No. 793, § 7;  
A.S.A. 1947, § 12-3307.

#### **24-3-407. [Repealed.]**

**Publisher's Notes.** This section, concerning investment authority and limitations and competitive awards, was repealed by Acts 1997, No. 1194, § 7. The

section was derived from Acts 1977, No. 793, § 7; 1981, No. 495, § 3; A.S.A. 1947, § 12-3307; Acts 1989, No. 302, § 2.

#### **24-3-408. Investment authority and limitations — Custodianship of assets.**

(a) The Treasurer of State shall be the legal custodian of the securities of the respective retirement systems. However, the systems may deposit with the Treasurer of State, in lieu of securities, safekeeping receipts or evidence of federal bookkeeping entries.

(b) The financial institution or depository issuing the safekeeping receipts, unless issued by an agency of the federal government, shall have on file with the Treasurer of State a letter of the issuer's bonding or insurance company, stating the amount of insurance currently in force covering loss or theft of the securities.

(c) In addition, the boards of trustees of the respective retirement systems, if deemed necessary to facilitate particular investment transactions, the settlement of security transactions, redemption of particular securities, or collection of investment income, may select and designate such banks, trust companies, or central depositories as may be appropriate to act as legal custodian of their securities.

**History.** Acts 1977, No. 793, § 7; 1981, No. 495, § 4; 1985, No. 412, § 2; A.S.A. 1947, § 12-3307.

### 24-3-409. Investment authority and limitations — Trust account.

(a) In addition to the various retirement systems funds established as trust funds in the State Treasury, a bank trust fund or funds may be established and maintained in such depository bank or banks as may be designated by the boards of trustees of the respective retirement systems.

(b) Each bank fund shall consist of and there may be deposited in the fund:

- (1) Any and all employer contributions, including any interest;
- (2) Any and all employee contributions, including any interest;
- (3) Interest, dividend, and other incomes realized from investments and reinvestments;
- (4) Interest earned upon any moneys in the fund; and
- (5) Such other proceeds as may be derived from the sale, exchange, redemption, transfer, or disposition of any securities or investments.

(c) The following disbursements may be made from the bank funds:

- (1) Payments for any and all securities and investments, the purchase of which is authorized by law, which may include principal, accrued interest, commission, taxes, and fees;
- (2) Payments for money manager and custodian bank fees;
- (3) The deposit to the appropriate State Treasury fund for the payment of annuities and refunds as authorized by law that are paid on vouchers issued by the respective retirement systems and on warrants issued thereon by the Auditor of State;
- (4) The payment of annuities and refunds as authorized by law that are paid on cash fund vouchers issued by the respective retirement systems and on checks or wire transfers issued from bank funds; and
- (5) The deposit to the appropriate State Treasury fund for the payments of salaries, maintenance, and operating expenses of the retirement systems supported from investment earnings.

**History.** Acts 1977, No. 793, § 7; A.S.A. 1947, § 12-3307; Acts 1989, No. 153, § 1; 1991, No. 222, § 1.

### 24-3-410 — 24-3-413. [Repealed.]

**Publisher's Notes.** These sections, concerning investment authority and limitations and investment counsel; prudent investor rule; loan of securities and covered call options, were repealed by Acts 1997, No. 1194, § 7. They were derived from the following sources:

24-3-410. Acts 1977, No. 793, § 7; 1985, No. 1009, § 1; A.S.A. 1947, § 12-3307; Acts 1989, No. 302, § 3; 1993, No. 403, § 17.

24-3-411. Acts 1977, No. 793, § 7; 1985, No. 412, § 3; A.S.A. 1947, § 12-3307.

24-3-412. Acts 1977, No. 793, § 7; 1981, No. 495, § 5; A.S.A. 1947, § 12-3307; Acts 1989, No. 652, § 10.

24-3-413. Acts 1977, No. 793, § 7; 1981, No. 495, § 6; 1983, No. 434, § 2; A.S.A. 1947, § 12-3307.



**24-3-414. Investment authority and limitations — Arkansas-related investments.**

(a) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing funds held by each of the trusts, fiduciaries administering the systems shall manage the funds so as to favorably impact the economic condition of and maximize capital investment in the State of Arkansas when appropriate investment alternatives are available.

(b) It is the intention of the General Assembly that, as assets become available for investment, the systems shall seek to invest not less than five percent (5%) nor more than ten percent (10%) of their portfolio in Arkansas-related investments.

(c) In calculating the percentage of Arkansas-related investments, the systems shall not include Federal National Mortgage Association investments nor Government National Mortgage Association investments.

(d) Nothing in this section shall in any way limit or impair the responsibility of a fiduciary to invest in accordance with the prudent investor rule set forth in §§ 24-3-417 — 24-3-426.

**History.** Acts 1977, No. 793, § 7; 1985, No. 412, § 4; A.S.A. 1947, § 12-3307; Acts 1997, No. 1194, § 3.

in (a), substituted “trusts” for “Arkansas public employee retirement systems”; and substituted “§ 24-3-417” for “§ 24-3-411”

**Amendments.** The 1997 amendment,

in (d).

**24-3-415. Registration of securities in name of nominee — Powers and duties of nominee.**

(a) The boards of trustees of the various state retirement systems are authorized to register stocks, bonds, notes, and other securities held by and for the systems in the name of a designated nominee.

(b) Such action as is necessary to establish a nominee and a nominee agreement may be taken.

(c) The nominee agreement shall specify that the nominee shall not have or claim any beneficial interest whatsoever in any stocks, bonds, notes, and other securities held in the name of the nominee; that is, all beneficial interest in the stocks, bonds, notes, and other securities and in the interest, dividends, and capital gains derived therefrom shall be vested in the respective state retirement systems.

(d) The nominee shall have no power to undertake any obligation on behalf of the nominee, except upon the direction of the particular state retirement system.

(e) The nominee may endorse securities and take other necessary actions in the purchase, registration, and sale of stocks, bonds, notes, and other securities, subject always to the provisions of this section.

**History.** Acts 1979, No. 522, § 2; A.S.A. 1947, § 12-3307.1.

in §§ 24-3-101 — 24-3-105, 24-3-201 — 24-3-210, 24-3-212 — 24-3-214, 24-3-301

**A.C.R.C.** References to “this chapter”

— 24-3-303, 24-3-401, 24-3-402, 24-3-404

— 24-3-406, 24-3-408, 24-3-409, 24-3-414, and 24-3-417 — 24-3-426 may not apply to this section which was enacted subsequently.

### **24-3-416. [Repealed.]**

**Publisher's Notes.** This section, concerning divestment of investments in South Africa, was repealed by Acts 1994 (2nd Ex. Sess.), No. 52, § 1. The section was derived from Acts 1977, No. 793, § 7; 1987, No. 9, § 1.

### **24-3-417. Prudent investor rule.**

(a) Except as otherwise provided in subsection (b) of this section, trustees who invest and manage trust assets owe a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this subchapter.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. Trustees are not liable to a beneficiary to the extent that the trustees acted in reasonable reliance on the provisions of the trust.

**History.** Acts 1997, No. 1194, § 4.

### **24-3-418. Standard of care — Portfolio strategy — Risk and return objectives.**

(a) Trustees shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustees shall exercise reasonable care, skill, and caution.

(b) The trustees' investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that trustees shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(8) An asset's special relationship or special value, if any, to the purposes of the trust or to one (1) or more of the beneficiaries.

(d) Trustees shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) Trustees may invest in any kind of property or type of investment consistent with the standards of this subchapter.

(f) Trustees who have special skills or expertise, or are named trustees in reliance upon the trustees' representation that the trustees have special skills or expertise, have a duty to use their special skills or expertise.

**History.** Acts 1997, No. 1194, § 4.

#### **24-3-419. Diversification.**

Trustees shall diversify the investments of the trust unless the trustees reasonably determine that, because of special circumstances, the purposes of the trust are better served without diversifying.

**History.** Acts 1997, No. 1194, § 4.

#### **24-3-420. Duties at inception of trusteeship.**

(a) Within a reasonable time after accepting a trusteeship or receiving trust assets, trustees shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this subchapter.

(b) Trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals. Trustees shall measure performance of the fund and shall measure each manager's performance against benchmarks jointly agreed upon by the trustees and managers.

**History.** Acts 1997, No. 1194, § 4.

#### **24-3-421. Loyalty.**

Trustees shall invest and manage the trust assets solely in the interest of the beneficiaries.

**History.** Acts 1997, No. 1194, § 4.

#### **24-3-422. Impartiality.**

If a trust has two (2) or more beneficiaries, the trustees shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

**History.** Acts 1997, No. 1194, § 4.



**24-3-423. Investment costs — Limitations on investment authority.**

(a) In investing and managing trust assets, trustees may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

(b) Trustees may delegate investment functions to an agent that a prudent trustee of comparable skills could properly delegate as provided in § 24-3-425.

**History.** Acts 1997, No. 1194, § 4;  
1999, No. 555, § 11.

**Amendments.** The 1999 amendment  
repealed former (c).

**24-3-424. Reviewing compliance.**

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of the trustees' decisions or actions and are not by hindsight.

**History.** Acts 1997, No. 1194, § 4.

**24-3-425. Delegation of investment and management functions.**

(a) Trustees may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustees shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) Trustees who complied with the requirements of subsection (a) of this section are not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustees of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

(e) Single agent or exclusive agency delegations by the trustees shall be discouraged. Trustees shall delegate investment and management functions to a single agent or an exclusive agency arrangement only after the trustee has determined the exclusive agency arrangement is in the best interest of the trust, has exercised extraordinary care and caution in selecting the exclusive agent, and has arranged to periodically review in detail the agent's actions to monitor their performance and compliance with the terms of the delegation.

**History.** Acts 1997, No. 1194, § 4.

### **24-3-426. Language invoking standard of subchapter.**

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this subchapter:

- (1) "Investments permissible by law for investment of trust funds";
- (2) "Legal investments";
- (3) "Authorized investments";
- (4) "Using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital";
- (5) "Prudent man rule";
- (6) "Prudent trustee rule";
- (7) "Prudent person rule"; and
- (8) "Prudent investor rule".

**History.** Acts 1997, No. 1194, § 4.

## **CHAPTER 4**

# **ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

### **SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. FUNDS AND MANAGEMENT OF ASSETS.
3. MEMBERSHIP.
4. EMPLOYER AND EMPLOYEE CONTRIBUTIONS.
5. CREDITED SERVICE AND ELIGIBILITY FOR BENEFITS.
6. BENEFITS.
7. PROVISIONS APPLICABLE TO PARTICULAR EMPLOYEES.
8. DEFERRED RETIREMENT OPTION PLAN.

### **A.C.R.C. Notes.**

References to "this chapter" in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to §§ 24-4-743, 24-4-744, and 24-4-801 — 24-4-806 which were enacted subsequently.

**Effective Dates.** Acts 1997, No. 299,

§ 28: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for

the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997.”

RESEARCH REFERENCES

<b>Am. Jur.</b> 60 Am. Jur. 2d, Pensions, § 39 et seq.	70 C.J.S., Pensions, § 1 et seq.
<b>C.J.S.</b> 67 C.J.S., Officers, § 243 et seq.	81A C.J.S., States, § 112 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 24-4-101. Definitions.
- 24-4-102. Penalty.
- 24-4-103. Creation of retirement system.
- 24-4-104. Board of trustees — Creation — Members.

SECTION.

- 24-4-105. Board of trustees — Meetings — Powers and duties.
- 24-4-106. Limitations.
- 24-4-107. Proposals to establish or revise.

**Cross References.** Deferred compensation plans, § 21-5-501 et seq.

Nonteaching public school employees' retirement fund, § 24-7-1101.

Reciprocity of service credits with other retirement systems provided, § 24-2-401 et seq.

Transfer from state employees retirement system to judicial retirement system, §§ 24-8-214, 24-8-312.

**Effective Dates.** Acts 1957, No. 177, § 17: Mar. 7, 1957. Emergency clause provided: “It is hereby determined by the General Assembly that the establishment of a State Employees Retirement System is necessary in order to retain and recruit efficient and skilled state employees and that the immediate passage of this Act is necessary in order that the Board of Trustees herein created be appointed, organize and establish the necessary rules and forms to be followed upon the establishment of the retirement system herein created on July 1, 1957. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1959, No. 42, § 16: Feb. 13, 1959. Emergency clause provided: “It is hereby determined by the General Assembly that the coverage of county employees in a

retirement system is necessary in order to retain and recruit efficient and skilled county employees; that the coverage is best obtained by including the county employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that it is necessary for the Board of Trustees of said Arkansas State Employees Retirement System to organize and establish necessary rules, regulations and forms to effectuate said coverage of county employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1961, No. 64, § 9: Feb. 9, 1961. Emergency clause provided: “It is hereby determined by the General Assembly that the coverage of municipal employees in a retirement system is necessary in order to retain and recruit efficient and skilled municipal employees; that the coverage is best obtained by permitting the inclusion of municipal employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that the Board of Trustees of the Arkansas State Employees Retirement System shall establish necessary rules, regulations and forms to effec-



tuates said coverage of municipal employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 153, § 15: Mar. 9, 1965. Emergency clause provided: "This act shall take effect and be in force from the date of its approval."

Acts 1975, No. 907, § 22: Apr. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1159, § 4: Feb. 11, 1976. Emergency clause provided: "It is hereby found and determined by the General Assembly that some employees who are receiving benefits from local fire and police benefits, have also been making contributions to the Public Employees Retirement System. It is further determined that the law as it presently stands, will not allow benefits to be paid to those employees, upon reaching normal age and service eligibility, as they otherwise would be entitled to. The immediate passage of this Act is therefore necessary in order for the Public Employees Retirement System to be making benefit payments to such employees immediately upon their retirement. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 715, § 9: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Retirement laws need further clarification in order for their meaning to be

comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 859, § 19: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of Act 177 of 1957, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 42, § 5: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Public Employees Retirement System law needs to be amended to allow otherwise eligible employees, who are now denied membership in such System because of previous membership in TIAA, to participate in such retirement system. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1983, No. 575, § 3: Mar. 21, 1983. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of LOPFI employees in a retirement system is necessary in order to retain and recruit efficient and skilled LOPFI employees; that the coverage is best obtained by permitting the inclusion of LOPFI employees in the membership of the Arkansas Public Employees Retirement System, established by Act 177 of 1957, as amended; that the Board of Trustees of the Arkansas State Employees Retirement System shall establish necessary rules, regulations and forms to effectuate said coverage of LOPFI employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 7, § 3: Jan. 29, 1985.

Emergency clause provided: "It is hereby found and determined by the General Assembly that only one of the non-State employee members of the Board of Trustees of PERS may be a retired member of the System; that this restriction is obsolete; and that this Act is immediately necessary to allow the filling of a non-State employee vacancy on the Board (which will occur in March 1985) by a non-State employee who is a retired member of PERS. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 461, § 5: Mar. 30, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current retirement law defining employee is unclear; that such should be revised to specifically include prosecuting attorneys of judicial districts; that the purchase of service credit should be expanded for certain employees; that the immediate passage of this act is necessary to preserve the public health, welfare, and safety. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 988, § 4: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case Ricarte v. State, CR 86-31, a question has arisen over the validity of Act 1159 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 160, § 6: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is not clear in its meaning and could result in inequities; and that this should be remedied immediately. Therefore, an emergency is hereby declared to exist and this act being neces-

sary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 331, § 6: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the effectiveness of this act on July 1, 1991, is essential to the operation of the Arkansas Public Employees Retirement System and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 757, § 6: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the state agencies and the Arkansas Public Employees' Retirement System; that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1995, No. 398, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the effectiveness of this act on July 1, 1995, is essential to the operation of the Arkansas Public Employees Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1292, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General As-



sembly that employees of Rural Waterworks Facilities Boards created by Act 617 of 1995 should be entitled to participate in the Public Employees Retirement System at the beginning of the next fiscal year; and that unless this emergency clause is adopted this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 76, § 10: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the Intergovernmental Juvenile Detention Council of the Tenth Judicial District created by uncodified Act 899 of 1995 should be entitled to participate in the Public Employees Retirement System at the beginning of the next fiscal year; and that unless this emergency clause is adopted this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be effective from and after July 1, 1997."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 299, § 28: July 1, 1997.

Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 1137, § 9: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the Arkansas Public Employees' Retirement System and the Teacher Retirement System were created to benefit the public employees and the employees of the public educational institutions and school districts of Arkansas; that increases in both the retirement system's asset values allow for increases in systems members' benefits; that most retirements under the Public Employees' Retirement System and the Teacher Retirement System are effective on July 1 and any delay in the effective date of this act beyond July 1, 1997 will cause an undue hardship in administering this act. Therefore, in order to promote the sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."



Acts 1999, No. 884, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the General Assembly that for the effective administration of this act, this act should become effective on July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1325, § 14: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in

the State Highway Employees' Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective, and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

## 24-4-101. Definitions.

As used in this act, unless the context otherwise requires:

(1) "Accumulated contributions" means the sum of all amounts deducted from the compensations of a member and credited to his individual account in the member's deposit account, together with regular interest as may have been credited thereon;

(2)(A) "Annuity" means an annual amount payable from funds of the system throughout the life of a person.

(B) All annuities shall be paid in equal monthly installments;

(3) "Annuity reserve" means the present value of an annuity computed upon the basis of such mortality and other tables of experience, and regular interest, as the board shall adopt;

(4)(A)(i)(a) "Average compensation" means the average of the highest annual compensations paid a member during any period of not less than three (3) years nor more than four (4) years of credited service with a public employer with the exact time period to be determined in accordance with the rules and regulations of the Board of Trustees of the Arkansas Public Employees' Retirement System as is actuarially appropriate for the system.

(b) Prior to reducing the time period used in determining average compensation, the board of trustees shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the committee.

(ii) Should the member have less than the minimum three (3) years of credited service, "average compensation" means the annual average compensations to him during his total years of credited service.

(B) Any other provision to the contrary notwithstanding:

(i) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation"

shall not be less than his rate of pay at the time of separation from covered employment;

(ii) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's highest rate of such pay; or

(iii) If a member served at any time in an office whose rate of pay is set by Arkansas Constitution, Amendment 70, § 1, and that member was a member of the General Assembly on December 31, 1978, then the member's "average compensation" shall not be less than the rate of pay currently set for the highest legislative office the member held;

(5) "Beneficiary" means any person, except a retirant, who is in receipt of an annuity or other benefit payable from funds of the system;

(6) "Board" means the Board of Trustees of the Arkansas Public Employees' Retirement System, as created in this act;

(7)(A) "Compensation" means the salary or wages paid a member by public employers for personal services rendered by him to public employers.

(B) In case a member's compensation includes either or both lodging and meals, exclusive of travel expense, the cash value of the lodging and meals shall be fixed by the board, not to exceed the amount the employee is required to report for federal income tax purposes;

(8) "County" means any county in the state and includes all agencies, offices, departments, boards, commissions, and county-supported institutions that are duly constituted agencies of the county;

(9)(A) "County employees" means all employees whose compensations are payable, either directly or indirectly, by county participating public employers and includes employees of the Association of Arkansas Counties and official court reporters and stenographers of the circuit courts and chancery courts.

(B) In any case of doubt as to who is a county employee within the meaning of this act, the board shall have the final power to decide the question;

(10) "Credited service" means the sum of the prior service and current service to the extent credited a member by the board, in accordance with the provisions of this act;

(11)(A) "Current service" means service rendered to a public employer by a member from and after the date he became a member.

(B) In the case of a non-state employee, service rendered by him to a public employer in the period from June 30, 1957, to the date his employer became a participating public employer, which period is called interim current service, shall be included as current service, but only if he satisfies the conditions set forth in Acts 1965, No. 153, § 10 [repealed];

(12)(A)(i)(a) "Employees" means all officers and employees of any office, agency, board, commission, including the Department of Higher Education, or department of a public employer whose com-

pensations were or are payable from funds appropriated by the public employer and all otherwise eligible employees whose compensations were or are payable in whole or part from federal funds, as well as the official court reporters and stenographers of the circuit and chancery courts of the state and all of the prosecuting attorneys of the judicial districts of Arkansas.

(b) In addition, effective July 1, 1983, the term "employees" shall include those persons who are eligible for benefits from the Teachers Insurance and Annuity Association but who are otherwise eligible for participation in the system due to employment with a public employer.

(ii) Any person who has heretofore been denied coverage under the system due to the fact that the person was or is paid from a grant instead of funds appropriated by the public employer shall from July 1, 1991, become a member of the system if in an otherwise eligible position due to his being an employee of a public employer, and a member may at his option receive credit for service rendered before that date as an employee paid from a grant, subject to the following conditions:

(a) The member is a participating employee covered under the system at the time of the purchase;

(b) The member furnishes proof, in a form required by the system, of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the system. The member may purchase all of the service or any portion thereof in multiples of one (1) year;

(d) The payment of funds shall be made in one (1) lump sum; and

(e) Any person who, prior to the effectiveness of this provision, has been removed from membership in the Arkansas Public Employees' Retirement System because of eligibility for membership in a local firemen's pension fund as a volunteer fire fighter may restore the refunded service and establish subsequent service by paying or causing to be paid to the Arkansas Public Employees' Retirement System the refunded contributions and the legally required contributions for subsequent service.

(B) Excepting members of the General Assembly and those persons participating in a local firemen's pension fund because of their status as volunteer fire fighters, the term "employees" shall not include persons who are members of any other retirement system, excepting federal Social Security, which retirement system is supported by state funds or is authorized by the laws of the state. In



addition, the term "employees" specifically shall not include the following:

(i) Persons in the employ of the Department of Arkansas State Police who are members of the State Police Retirement System;

(ii) Persons in the employ of the Department of Education or the Arkansas Teacher Retirement System, except as otherwise provided by law;

(iii) Persons in the employ of the University of Arkansas or any other state-supported institution of higher learning, except as otherwise provided by law;

(iv) Justices of the Supreme Court, judges of circuit courts, or judges of chancery courts;

(v) Persons in the employ of the General Assembly who are employed on a less than full-time regular annual salary basis, except that any person who has served or who shall serve during at least six (6) legislative sessions as Chief Clerk of the House of Representatives, and who has served in the employ of the General Assembly during at least twelve (12) previous legislative sessions, shall be eligible to receive credited service in the Arkansas Public Employees' Retirement System for any period of employment with the General Assembly since July 1, 1957, but only if the employee is, or was, an active member of the system with at least ten (10) years of credited service and only if the employee pays, or causes to be paid, all employee contributions at the rate and on the compensation that would have been paid had he been a member of the system during those periods of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during those periods of time, and regular interest on the employee and employer contributions computed from the date of service to the date the payment is received by the system;

(vi) Persons who are in the employ of the Arkansas State Highway and Transportation Department;

(vii) Persons employed with the intent of working fewer than ninety (90) calendar days;

(viii) Persons who are first employed or those who are reemployed as participants on or after July 1, 1979, under the Comprehensive Employment and Training Act. However, those persons participating in the program prior to July 1, 1979, shall continue to be members of the system while employed by a participating public employer;

(ix) Any person heretofore denied coverage by the system because that person was eligible for membership in, but did not participate in, another retirement system supported by state funds or that is authorized by the laws of the state, shall, from the date of July 1, 1999, become a member of the system if in an otherwise eligible position due to employment with a participating employer. Any person heretofore denied coverage by the system because that person

was eligible for, or receiving benefits from, another retirement system supported by state funds or that is authorized by the laws of the state shall, from the date of July 1, 1999, become a member of the system if in an otherwise eligible position due to employment with a participating employer. Such person may receive, at the employee's option, credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the system at the time of the purchase;

(b) The member furnishes proof, in a form required by the system, of the service and compensation received;

(c) The member pays, or causes to be paid, all employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the system. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum; and

(x) The surviving spouse of any person deemed erroneously enrolled due to receipt of a benefit from another retirement system supported by state funds or that is authorized by the laws of the state, but whose service had not been refunded at or before the date of death, shall be eligible to receive a benefit under the provisions of § 24-3-209 provided that the person was an employee of the participating employer on the date of death. The monthly annuity shall be payable on the first day of the month following the month of application and shall be retroactive to the date the benefit would have been otherwise payable as provided for in § 24-3-209.

(C) In any case of doubt as to who is an employee within the meaning of this act, the board shall have the final power to decide the question;

(13) "Intergovernmental Juvenile Detention Council" means the Intergovernmental Juvenile Detention Council of the 10th Judicial District created by uncodified Act 899 of 1995, which has chosen by a majority vote of the Council to participate in the Arkansas Public Employees' Retirement System;

(14) "Joint county and municipal sanitation authority" means any sanitation authority created under the Joint County and Municipal Solid Waste Disposal Act, § 14-233-101 et seq., which has chosen by a majority vote of its full-time employees to participate in the Arkansas Public Employees' Retirement System;

(15) "Member" means any person who is included in the membership of the system;

(16)(A) "Municipal employees" means all employees whose compensations are payable, either directly or indirectly, by participating

municipal public employers, and includes employees of the Arkansas Municipal League, employees of the water and sewer system of any city divided by a state line, and employees of the Arkansas Local Police and Fire Retirement System.

(B) The term “municipal employees” shall not include members of a municipal firemen’s or policemen’s pension fund while the member is accruing credited service in that system, excepting those members of a municipal firemen’s pension fund who are members solely because of their status as volunteer fire fighters.

(C) In any case of doubt as to who is a municipal employee within the meaning of this act, the board shall have the final power to decide the question;

(17) “Municipality” means any incorporated city or town in the state and includes all agencies, offices, departments, and commissions of the city or town;

(18) “Nonstate employees” means county employees, municipal employees, rural waterworks facilities board employees, regional airport authority employees, public facilities board employees, regional solid waste management board employees, joint county and municipal sanitation authority employees, regional water distribution board employees, school employees, and the employees of the Intergovernmental Juvenile Detention Council;

(19) “Participating public employer” means:

(A) Any county, municipality, rural waterworks facilities board, regional airport authority, public facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board in the state whose employees are included in the membership of the system;

(B) The employees of the Intergovernmental Juvenile Detention Council of the Tenth Judicial District who are included in the membership of the system; or

(C) A rehabilitative services corporation or local unit of government as provided for in § 24-4-746;

(20) “Prior service”, in the case of a state or municipal employee, means personal service rendered by him to a public employer prior to July 1, 1957; the term “prior service”, in the case of a county employee, means personal service rendered by him to a public employer prior to July 1, 1959;

(21) “Public employer” means the State of Arkansas or any participating public employer;

(22) “Public facilities board” means any public facilities board created under the Public Facilities Boards Act, § 14-137-101 et seq., which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees’ Retirement System;

(23) “Regional airport authority” means any regional airport authority created under the Regional Airport Act, § 14-362-101 et seq., which was formed after January 1, 1990, and which has chosen to participate in the Arkansas Public Employees’ Retirement System;



(24) "Regional solid waste management board" means any regional solid waste management board defined under § 8-6-701 et seq. which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

(25) "Regional water distribution board" means any regional water distribution board created under the Regional Water Distribution District Act, § 14-116-101 et seq., which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

(26) "Regular interest" means such rates of interest per annum, compounded annually, as the board shall prescribe from time to time; however, for circumstances entered into July 1, 1985, or later, where payments are payable to the system by a member together with regular interest thereon, the rate of interest shall be the same for all circumstances and shall be six percent (6%) per annum unless changed by the board;

(27) "Retirant" means any member who retires with an annuity payable from funds of the system;

(28) "Retirement" means a member's withdrawal from the service of a public employer, with an annuity payable from funds of the system;

(29) "Rural waterworks facilities board" means a rural waterworks facilities board created under § 14-238-101 et seq.;

(30) "State" means the State of Arkansas and includes all agencies, offices, departments, boards, commissions, and state-supported institutions that are duly constituted agencies of the state;

(31)(A) "State employees" means all otherwise eligible employees whose compensations were, or are, payable from funds appropriated by the state and includes all employees whose compensations were, or are, payable in whole or in part from federal funds.

(B) In any case of doubt as to who is a state employee within the meaning of this act, the board shall have the final power to decide the question; and

(32) "System" means the Arkansas Public Employees' Retirement System.

**History.** Acts 1957, No. 177, § 1; 1959, No. 42, § 1; 1961, No. 64, § 1; 1965, No. 47, § 1; 1967, No. 289, § 1; 1975, No. 907, § 7; 1975 (Extended Sess., 1976), No. 1159, §§ 1, 2; 1979, No. 715, § 8; 1981, No. 859, § 1; 1983, No. 42, §§ 1, 2; 1983, No. 575, § 1; 1985, No. 910, § 1; 1985, No. 938, § 7; A.S.A. 1947, § 12-2501; Acts 1987, No. 461, § 1; 1987, No. 493, § 1; reen. 1987, No. 988, §§ 1, 2; 1989, No. 160, § 3; 1991, No. 331, § 1; 1991, No. 757, § 2; 1993, No. 286, §§ 1-3; 1993, No. 432, §§ 6, 7; 1993, No. 975, § 3; 1995, No. 398, §§ 1-3; 1995, No. 846, § 1; 1995, No. 1292, §§ 1-3; 1997, No. 76, §§ 2-4; 1997, No. 299, § 7; 1997, No. 639, § 1; 1997, No.

1137, § 2; 1999, No. 325, § 6; 1999, No. 865, § 1.

**A.C.R.C. Notes.** Part of this section was reenacted by Acts 1987, No. 988, §§ 1, 2. Acts 1987, No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal any other 1987 legislation and that such other legislation would be controlling in the event of conflict.

Acts 1991, No. 331, § 2, provided: "Effective July 1, 1991, all current employees of the Association of Arkansas Counties shall elect within thirty (30) days whether to become a member of the Arkansas Public Employees Retirement System. There-

after, all newly hired employees of the Association of Arkansas Counties shall become members of APERS."

**Publisher's Notes.** Acts 1947, No. 25, which provided that any court reporter who had served in the circuit or chancery courts in Arkansas for at least thirty-five (35) years and who had reached the age of seventy-five (75) would be entitled to a pension of one-half ( $\frac{1}{2}$ ) his salary at the time of retirement and that the pensions would be paid by the counties comprising the several court districts, was superseded by Acts 1957, No. 177. However, § 16 of Acts 1957, No. 177, provided that persons who had retired prior to March 7, 1957, under the terms of Acts 1947, No. 25, would continue to receive the same benefits acquired pursuant thereto.

Acts 1987, No. 461, § 3, provided that this act shall be retroactive to June 30, 1957.

In reference to the term "effectiveness of this provision," Acts 1993, No. 432, was signed by the Governor on March 10, 1993, and became effective on August 13, 1993.

**Amendments.** The 1993 amendment by No. 286 inserted "or regional airport authority" in former (5); inserted "regional airport authority employees" in former (9); and added former (26).

The 1993 amendment by No. 432 made a minor punctuation change in former (7)(A)(i); substituted "person" for "persons" in former (7)(A)(ii)(b); added former (7)(A)(iii)(e); in former (7)(B), inserted "and those persons eligible for or participating in a local firemen's pension because of their status as volunteer fire fighters" and made other minor changes; substituted "Department of Arkansas State Police" for "Arkansas State Police Department" in former (7)(B)(i); inserted "State" in former (7)(B)(ii); substituted "fewer" for "less" in former (7)(B)(vii); and, in former (11), substituted "participating municipal" for "municipal participating" in the first sentence, and added "excepting those members of a municipal firemen's pension fund who are members solely because of their status as volunteer fire fighters" at the end of the second sentence.

The 1993 amendment by No. 975 substituted "four (4)" for "five (5)" in former (17)(A)(i) and former (17)(A)(iii); substituted "four-year" for "five-year" in the introductory language of former (17)(A)(ii);

in former (17)(A)(ii)(a) and former (17)(A)(ii)(b), substituted "One-fourth ( $\frac{1}{4}$ )" for "One-fifth ( $\frac{1}{5}$ )", substituted "three (3)" for "four (4)", and substituted "fourth" for "fifth"; substituted "70 § 1" for "56, Section 2" in former (17)(B)(i); and, substituted "70 § 1" for "56, Section 3" in former (17)(B)(ii) and former (17)(B)(iii).

The 1995 amendment by No. 398 rewrote former (5) and former (9); and added former (27) through (30).

The 1995 amendment by No. 846 in former (7)(B), inserted "and those persons eligible for . . . policemen's pension fund" in the introductory language, and added "or those persons elected to the office of county sheriff" in former (7)(B)(i).

The 1995 amendment by No. 1292 rewrote former (5) and former (9); and added former (31).

The 1997 amendment by No. 76 added the language beginning "or the employees" in former (5); added "and the employees the Intergovernmental Juvenile Detention Council" in former (9); and added former (32).

The 1997 amendment by No. 299 inserted "including the Department of Higher Education" near the beginning of former (7)(A)(i); deleted former (7)(A)(ii) and redesignated the remaining subdivisions accordingly; rewrote former (7)(A)(ii)(c); rewrote former (7)(B)(v); and deleted former (7)(B)(viii) and redesignated the remaining subdivisions accordingly.

The 1997 amendment by No. 639 substituted "January 1, 1990" for "March 20, 1992" in former (26).

The 1997 amendment by No. 1137 rewrote former (17)(A)(i); deleted former (17)(A)(ii); and redesignated former (17)(A)(iii) as former (17)(A)(ii); and substituted "the minimum three (3) years of credited service" for "four (4) years of credited service" in former (17)(A)(ii).

The 1999 amendment by No. 325 deleted the former last sentence in present (12)(A)(i)(a); rewrote present (12)(B) and present (12)(B)(i); added present (12)(B)(ix); and made stylistic changes in present (12).

The 1999 amendment by No. 865 added present (19)(C); and made stylistic changes.

**Meaning of "this act".** Acts 1957, No. 177, codified as §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 —

24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, 24-4-606.

**U.S. Code.** The Comprehensive Employment and Training Act, referred to in this section, was repealed by Public Law 97-300.

CASE NOTES

**Constitutionality.**

School superintendents not considered state employees pursuant to subdivision (9) were not denied equal protection under the Fourteenth Amendment to the United States Constitution by their exclusion from the class of public employees authorized to take early retirement under § 24-4-732, as there was a rational basis for classifications drawn by the general as-

sembly in that superintendents were on payroll of local school districts and not state employees, and primary purpose of early retirement legislation was to facilitate a savings in state revenues by lowering number of employees on state payroll. *Haley v. Hall*, 733 F. Supp. 1275 (E.D. Ark. 1990).

**Cited:** *Hall v. Board of Trustees*, 671 F.2d 269 (8th Cir. 1982).

**24-4-102. Penalty.**

Any person who knowingly makes any false statements or who falsifies or permits to be falsified any record, in an attempt to defraud the system as the result of such act, shall be guilty of a misdemeanor and shall, upon conviction by a court, be punished by a fine of not less than one hundred dollars (\$100) or a maximum of six (6) months in jail, or both.

**History.** Acts 1957, No. 177, § 5; 1959, No. 42, § 5; 1965, No. 153, § 5; 1981, No. 859, § 5; A.S.A. 1947, § 12-2505.

**24-4-103. Creation of retirement system.**

(a) There is created and established a retirement system for the employees of the State of Arkansas and participating public employers to be known as the "Arkansas Public Employees' Retirement System".

(b) All business of the system shall be transacted through a board of trustees as provided for in this act.

**History.** Acts 1957, No. 177, § 2; 1959, No. 42, § 2; A.S.A. 1947, § 12-2502.

**Meaning of "this act".** See note to § 24-4-101.

**24-4-104. Board of trustees — Creation — Members.**

(a) The administration and control of the system shall be vested in a board called the Board of Trustees of the Arkansas Public Employees' Retirement System.

(b) The board shall consist of nine (9) trustees, as follows:

(1) The Auditor of State, the Treasurer of State, and the Director of the Department of Finance and Administration shall be ex officio members; and

(2) Three (3) members who are state employees and three (3) members who are nonstate employees to be appointed by the Governor; each nonstate employee trustee and each state employee trustee shall



have at least ten (10) continuous years of service with a public employer or employers, and shall be a member or retired member of the system.

(c)(1) The term of office of appointed trustees shall be six (6) years.

(2) If any state employee trustee leaves the employ of the state or if any nonstate employee trustee leaves the employ of a participating public employer, the board shall, by a majority of the membership of the board, fill the vacancy for the remainder of the unexpired term by appointment of a state employee member or a nonstate employee member, as the case may be.

(d)(1) Annually, the board shall select from its membership a chairman and a vice chairman.

(2) The board shall appoint an executive director who shall be the executive administrative officer of the retirement system and shall also be ex officio secretary of the board, but who shall have no vote on questions before the board and who shall be directly responsible to the board.

(3) By resolution duly adopted, the board may delegate to the executive director any of the powers and duties vested in or imposed upon it by law.

(4) Within such limitations as may be contained in legislative appropriations therefor, the executive director, subject to the approval of the board, may employ and fix the compensation of such secretarial, clerical, professional, and other personnel as may be required for the proper administration of the system.

**History.** Acts 1957, No. 177, § 3; 1959, No. 42, § 3; 1965, No. 153, § 4; 1975, No. 732, § 1; 1985, No. 7, § 1; A.S.A. 1947, § 12-2503.

**Publisher's Notes.** Acts 1985, No. 7, § 1, provided, in part, that the terms of

office of appointed trustees holding office on January 29, 1985 should continue to the expiration of their respective terms and that their successors should be appointed for terms of six (6) years.

## **24-4-105. Board of trustees — Meetings — Powers and duties.**

(a)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System shall hold meetings regularly, at least one (1) meeting in each quarter year, and shall designate the time and place of the meeting.

(2) Special meetings may be held in accordance with such rules and regulations as the board shall adopt from time to time.

(3) Five (5) trustees shall constitute a quorum at any meeting of the board, and at least five (5) concurring votes shall be necessary for a decision by the board at any of its meetings.

(b) In addition to such other duties as are imposed upon the board by this act, the board shall:

(1) Make all rules and regulations as it shall deem necessary from time to time in the transaction of its business and in administering the system;

- (2) Provide for the administrative direction and control of the executive director and such clerical staff as may be required in the administration of the system;
- (3) Provide for an actuarial valuation of the system as may be deemed necessary by the board;
- (4) Exercise discretionary power and authority in the investments of, and disbursements of, the funds of the system, subject to the provisions of this act;
- (5) Adopt such mortality and other tables of experience, and a rate or rates of interest, as shall be required in the proper operation of the system;
- (6) Perform the duties of trustee without additional compensation therefor, but may receive expense reimbursement in accordance with § 25-16-901 et seq.; and
- (7) Do any and all things necessary for the proper administration of the system and for carrying out and making effective the provisions of this act.

**History.** Acts 1957, No. 177, § 3; 1959, No. 42, § 3; 1965, No. 153, § 4; A.S.A. 1947, § 12-2503; Acts 1997, No. 250, § 228.

**Amendments.** The 1997 amendment rewrote (b)(6).

**Meaning of "this act".** See note to § 24-4-101.

Transfer from state employees retirement system to judicial retirement system, §§ 24-8-214, 24-8-312.

**Cross References.** Investments, § 24-3-401 et seq.

Mileage reimbursement, § 25-16-901 et seq.

**24-4-106. Limitations.**

- (a)(1) Notwithstanding any provisions to the contrary, it is considered sound public policy to limit contributions by public employers to one (1) state-authorized retirement plan. Accordingly, effective July 1, 1999, employers participating in the Arkansas Public Employees' Retirement System shall not establish any other state-authorized plan that requires contributions by the employer. The Board of Trustees of the Arkansas Public Employees' Retirement System shall promulgate such rules and regulations as are required to prohibit the establishment of such plans in the future.
- (2) It is the intent of the General Assembly to eliminate existing plans through attrition over a period of time to be determined by the board.
- (b) The Arkansas Public Employees' Retirement System shall notify all participating employers on an annual basis of the requirements of this section and the board rules and regulations governing this subject.

**History.** Acts 1999, No. 884, § 1.

**24-4-107. Proposals to establish or revise.**

The Board of Trustees of the Arkansas Public Employees' Retirement System shall present to the Joint Committee on Public Retirement and

Social Security Programs information concerning the statutory authority and actuarial appropriateness of proposed board actions to establish or revise a multiplier, any benefit, or a provision of a deferred retirement option plan.

**History.** Acts 1999, No. 1325, § 4.

## SUBCHAPTER 2 — FUNDS AND MANAGEMENT OF ASSETS

### SECTION.

- 24-4-201. Arkansas Public Employees' Retirement System Fund — Creation — Division accounts.
- 24-4-202. Arkansas Public Employees' Retirement System Fund — Contributions.
- 24-4-203, 24-4-204. [Repealed.]
- 24-4-205. State as trustee.
- 24-4-206. Funding — Additional liabilities — Local Government Division.
- 24-4-207. Bonds — Payments on vouch-

### SECTION.

- ers and warrants — Adjustment of erroneous payments.
- 24-4-208. Reduction of annuities where funds inadequate.
- 24-4-209. Interest.
- 24-4-210. Transfer of funds to cover retired county constitutional officers.
- 24-4-211. Disposition of funds returned to hospitals withdrawing from system.

**Cross References.** Investments, § 24-3-401 et seq.

Uniform benefit specifications for certain public employees and minimum financing, accounting and reporting standards for named public employee retirement plans, § 24-3-101 et seq.

**Effective Dates.** Acts 1957, No. 177, § 17: Mar. 7, 1957. Emergency clause provided: "It is hereby determined by the General Assembly that the establishment of a State Employees Retirement System is necessary in order to retain and recruit efficient and skilled state employees and that the immediate passage of this Act is necessary in order that the Board of Trustees herein created be appointed, organize and establish the necessary rules and forms to be followed upon the establishment of the retirement system herein created on July 1, 1957. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 42, § 16: Feb. 13, 1959. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of county employees in a

retirement system is necessary in order to retain and recruit efficient and skilled county employees; that the coverage is best obtained by including the county employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that it is necessary for the Board of Trustees of said Arkansas State Employees Retirement System to organize and establish necessary rules, regulations and forms to effectuate said coverage of county employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1961, No. 64, § 9: Feb. 8, 1961. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of municipal employees in a retirement system is necessary in order to retain and recruit efficient and skilled municipal employees; that the coverage is best obtained by permitting the inclusion of municipal employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that the Board of



Trustees of the Arkansas State Employees Retirement System shall establish necessary rules, regulations and forms to effectuate said coverage of municipal employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 153, § 15: Mar. 9, 1965. Emergency clause provided: "This act shall take effect and be in force from the date of its approval."

Acts 1977, No. 663, § 8: Mar. 23, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 754, § 3: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present method of collecting funds by the Public Employees Retirement System from counties for the payment of benefits to retired County Constitutional Officers is inadequate and resulting in an extreme financial burden on the Public Employees Retirement System, and that the provisions of this Act will relieve the Public Employees Retirement System of such financial strain; that under Amendment 7 to the Arkansas Constitution, Acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective until after July 1, 1977, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1977. Therefore, an emergency is hereby declared to exist and this

Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to maintain employee morale and a stable and improved retirement system commensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1977 (Ex. Sess.), No. 14, § 3: Aug. 15, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that if Arkansas Counties are required to fully fund the retirement reserve fund for County-Elected Constitutional Officers during one fiscal year, Arkansas Counties will be unable to maintain their necessary operations and fund the retirement reserve fund at the same time. It is also hereby found and determined by the General Assembly that some confusion has arisen regarding the full intent of the General Assembly when it enacted Act 754 of 1977 relating to the retirement of county-elected constitutional officers; that it is essential to the proper administration of the provisions of the Public Employees Retirement System that the intent of Act 754 be clarified at the earliest possible date; that this Act is designed to provide such clarification and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 373, § 3: Mar. 12, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to the financial solvency of the County and Municipal Divisions of the Public Employees Retirement System that adequate provision be

made by law for the orderly funding of the actuarial liabilities incurred by new legislative enactments which expand or increase the liabilities of said Division, and that the immediate passage of this Act is necessary to provide procedures for such funding with respect to retirement enactments by the General Assembly which may incur greater actuarial liabilities than contemplated by the General Assembly at the time such legislation is enacted. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 653, § 2: Mar. 29, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present procedure for funding the Retirement Reserve Fund for County Elected Constitutional Officers who retired prior to July 1, 1978 over a period of five (5) years is causing a serious financial hardship on some counties; that this Act is designed to provide for such funding over a period of ten (10) years and to thereby partially alleviate this problem and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 715, § 9: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Retirement laws need further clarification in order for their meaning to be comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 859, § 19: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of Act 177 of 1957, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act,

being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 677, § 10: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Employees Retirement System law need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 1093, § 6: Apr. 13, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that immediate passage and approval of this act is necessary to render finality to annuity determinations made by the Public Employees Retirement System Board and to prevent the hardship and instability that results from the recoupment of the overpayments of incorrectly calculated annuity payments to retired State employees for a protracted period of time. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 398, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the effectiveness of this act on July 1, 1995, is essential to the operation of the Arkansas Public Employees Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1292, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that employees of Rural Waterworks Facilities Boards created by Act 617 of 1995 should be entitled to participate in the Public Employees Retirement System at the beginning of the next fiscal year;



and that unless this emergency clause is adopted this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 76, § 10: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the Intergovernmental Juvenile Detention Council of the Tenth Judicial District created by uncodified Act 899 of 1995 should be entitled to participate in the Public Employees Retirement System at the beginning of the next fiscal year; and that unless this emergency clause is adopted this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be effective from and after July 1, 1997."

Acts 1997, No. 299, § 28: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement

System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 308, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the creation of a Local Government Division will improve the financial position of the system resulting in more stable contribution rates for non-state participating employers with enhanced benefits for members and retirees of the Arkansas Public Employees Retirement System and for the effective administration of the system in this act must be effective at the beginning of the fiscal year because computations are made at the beginning of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

#### **24-4-201. Arkansas Public Employees' Retirement System Fund — Creation — Division accounts.**

(a)(1) There is established on the books of the Treasurer of State, the Auditor of State, and the Director of the Department of Finance and Administration a fund to be known as the Arkansas Public Employees' Retirement System Fund.

(2) This fund shall consist of trust funds as provided by law and shall be used for the payment of personal services, operating expenses, investments, benefits, refunds, and for such other purposes as may be authorized by law.

(b)(1) The Arkansas Public Employees' Retirement System shall consist of two (2) divisions, namely, the State Division, for the participation of county employees, municipal employees, school employees, and certain other nonstate employees as defined in § 24-4-101. In addition, the Board of Trustees of the Arkansas Public Employees' Retirement System shall have the authority to establish other divisions as necessary.



(2) Separate accounting of the fund's transactions shall be maintained for each division, showing the equities of each division in the assets of the system.

(3) The retirement system accounts shall be the members' deposit account, the employers' accumulation account, the retirement reserve account, the income account, and such other accounts as the board shall establish from time to time.

**History.** Acts 1957, No. 177, § 4; 1959, No. 42, § 4; 1961, No. 64, § 2; 1981, No. 859, § 16; A.S.A. 1947, § 12-2504; Acts 1997, No. 299, § 8; 1999, No. 308, § 1.

**Amendments.** The 1997 amendment, in (b)(1), substituted "five (5) divisions" for

"three (3) divisions," added the language beginning "the School Division" to the end of the first sentence, and added the last sentence; and deleted former (b)(4).

The 1999 amendment rewrote (b)(1); and made stylistic changes.

## **24-4-202. Arkansas Public Employees' Retirement System Fund — Contributions.**

(a)(1) The state employer contributions provided for in § 24-3-103 shall be paid by state warrant, bank check, or electronic transfer by the state agency which employs each member.

(2) The employer's contribution shall be paid to the Arkansas Public Employees' Retirement System Fund at the time and with the frequency established by the Board of Trustees of the Arkansas Public Employees' Retirement System and shall be paid concurrently with the contributions made by its employees to the fund.

(b)(1) In the case of employees receiving part or all of their compensation from federal funds, the disbursing officer of the agency receiving the federal funds shall transmit such sums to the Arkansas Public Employees' Retirement System Fund from federal funds of the agency.

(2) These sums shall be those sums of money which are necessary to provide the employer contributions provided for in § 24-3-103, based on the portions of the employees' compensation payable from federal funds.

(c)(1) In the case of nonstate employees, each participating public employer shall pay into the Arkansas Public Employees' Retirement System Fund such sums of money as are necessary to provide the participating public employer's contributions provided for in § 24-3-103.

(2) The participating public employer's contributions shall be paid at the time and with the frequency established by the board and shall be paid concurrently with the contributions made by its employees to the fund.

(3) The employer's contributions shall be transmitted to the Arkansas Public Employees' Retirement System Fund in such form and manner, together with such supporting data, as the board shall prescribe from time to time.

(d) In the case of circuit and chancery court reporters, the public employer contributions shall be paid, when directed by the board, by

the respective counties in the proportion that each county pays the total salaries of the circuit and chancery court reporters.

(e)(1) In the case of regional airport authority employees, public facilities board employees, rural waterworks facilities board employees, regional solid waste management board employees, joint county and municipal sanitation authority employees, and regional water distribution board employees, Intergovernmental Juvenile Detention Council employees, each participating employer shall pay into the Arkansas Public Employees' Retirement System Fund such sums of money as are necessary to provide the employer's contribution, as directed by the board.

(2) The contribution shall be transmitted to the Arkansas Public Employees' Retirement System, together with such supporting data as the board shall prescribe from time to time.

(f)(1) If any participating public employer fails to remit to the system those moneys which are required by law or regulation by the date and at the frequency established by the board, the system shall impose a penalty equal to the actuarially assumed rate of return on investments of the fund in the form of interest on an annual basis on the moneys due.

(2) This interest shall be computed on the actual days of delinquency and shall be paid to the system for the purpose of reimbursing the trust fund for the money which would have been earned on the moneys had they been paid when due.

(3) The interest penalty shall be determined by the system on the date the delinquent funds are received, and a statement of the interest shall be sent to the participating public employer.

(4) If the interest penalty or delinquent moneys are not received by the system by the last business day of the month in which the moneys were originally due, then the system shall cause the sums of moneys, including interest, to be transferred from any moneys due the participating public employer from the office of the Treasurer of State or the Department of Education as approved in § 19-5-106(a)(5).

(g)(1) If any participating public employer fails to file with the system the retirement report by the date established by the board, the system shall impose a penalty of one hundred fifty dollars (\$150) for each time the report is late.

(2) A statement of the penalty shall be sent to the participating employer.

(3) If the penalty is not received by the last business day of the month in which the report was due, then the system shall cause the amount to be transferred from any moneys due the participating public employer from the office of the Treasurer of State or the Department of Education as provided in § 19-5-106(a)(5).

**History.** Acts 1957, No. 177, § 4; 1959, No. 398, § 4; 1995, No. 1292, § 4; 1997, No. 42, § 4; 1961, No. 64, § 2; 1967, No. 108, § 1; 1977, No. 663, § 1; A.S.A. 1947, No. 76, § 5; 1997, No. 299, § 9.  
**Amendments.** The 1993 amendment § 12-2504; Acts 1993, No. 286, § 4; 1995, substituted "employer's" for "employer"

near the beginning of the first sentence of (a) and in the second sentence of (b); made minor punctuation changes in the second sentence of (b) and in the first sentence of (c); and added (e).

The 1995 amendment by No. 398 added the subdivision designations in (a) and (c); substituted “employer” for “employer’s” in (a)(1), (b) and (d); deleted “System” preceding “Fund” in present (a)(1), (b) and (c)(1); in (b), substituted “compensation” for “compensations” and made minor punctuation changes; and rewrote (e).

The 1995 amendment by No. 1292 rewrote (e).

The 1997 amendment by No. 76 inserted “Intergovernmental Juvenile Detention Council employees” in (e)(1).

The 1997 amendment by No. 299 sub-

stituted “§ 24-3-103” for “this act” throughout this section; inserted “or electronic transfer” following “or bank check” in (a)(1); inserted “at the time and with the frequency established by the board” preceding “and shall be paid concurrently” in (a)(2); substituted “Arkansas Public Employees’ Retirement System Fund” for “Treasurer of State” throughout this section; deleted former (b)(3); inserted “at the time . . . shall be paid” in (c)(2); and added (f) and (g).

**Meaning of “this act”.** Acts 1957, No. 177, codified as §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, 24-4-606.

## **24-4-203, 24-4-204. [Repealed.]**

**Publisher’s Notes.** These sections, concerning penalties for delinquency and audit of officers, were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-203. Acts 1957, No. 177, § 4; 1959,

No. 42, § 4; 1961, No. 64, § 2; 1979, No. 715, § 7; A.S.A. 1947, § 12-2504; Acts 1989, No. 407, § 1; 1991, No. 234, § 1.

24-4-204. Acts 1957, No. 177, § 4; 1959, No. 42, § 4; 1961, No. 64, § 2; A.S.A. 1947, § 12-2504.

## **24-4-205. State as trustee.**

The promulgation of this act shall constitute an offer by the state to serve as trustee for the funds collected under the provisions of this act, as well as a guarantee that the disbursement thereof shall be in accordance with the provisions of this act and that none of the funds shall be used for any purpose except the purposes provided for in this act.

**History.** Acts 1957, No. 177, § 12; 1959, No. 42, § 12; 1961, No. 64, § 6; 1965, No. 153, § 13; A.S.A. 1947, § 12-2512.

**Meaning of “this act”.** See note to § 24-4-202.

## **24-4-206. Funding — Additional liabilities — Local Government Division.**

(a)(1) Whenever the General Assembly shall enact any laws which create additional eligibility or liabilities for county constitutional officers or for county employees or municipal employees of the Arkansas Public Employees’ Retirement System and the Board of Trustees of the Arkansas Public Employees’ Retirement System shall determine, based upon actuarial valuation, that the method of funding the additional liabilities is not sufficient to meet the unfunded obligations created by the additional benefit or eligibility provision, then the procedures



established in this section shall be followed in providing the necessary moneys to actuarially fund the additional liabilities.

(2)(A) The Executive Director of the Arkansas Public Employees' Retirement System shall cause an actuarial valuation to be made of the additional liabilities created by the laws.

(B) In the event the actuary determines that the employee and employer contributions are actuarially insufficient to pay the benefits of the elected county constitutional officer members or county or municipal employee members of the Local Government Division of the Arkansas Public Employees' Retirement System, the director shall establish accounts and records to identify the estimated contributions and other income available to actuarially fund the members' benefits when they mature, as well as the extent that each county's member liabilities will exceed the amount of employee and employer contributions and interest thereon.

(b)(1) The director shall then calculate, with the assistance of the actuary, the amount of funds required annually or on a lump-sum basis to actuarially fund the additional unfunded liabilities created by the laws with respect to members from each county or municipality. He shall annually or on a lump-sum basis certify to the Chief Fiscal Officer of the State the amount required for the year or on a lump-sum basis to establish sufficient funds and reserves to meet the actuarial requirements of the additional benefits.

(2) The certificate of the Chief Fiscal Officer of the State shall reflect the amount of the annual extra payment to be charged against each of the several counties and municipalities, based on the unfunded liabilities with respect to their officials and employee members of the Local Government Division.

(3) The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the County Aid Fund or from the Municipal Aid Fund, as the case may be, from general revenues allocated thereto for turnback to counties or municipalities to the Arkansas Public Employees' Retirement System Fund for credit to the Local Government Division of the Arkansas Public Employees' Retirement System.

(4) From the general revenues allocated thereto for turnback to counties or municipalities, the Chief Fiscal Officer of the State shall deduct from the County Aid Fund turnback to be received by each county an amount as computed pursuant to this section required to pay retirement benefits for its elected county constitutional officer members, and for its county employee members of the Local Government Division of the Arkansas Public Employees' Retirement System.

(5) From general revenues allocated thereto for turnback to municipalities, the Chief Fiscal Officer of the State shall deduct from the Municipal Aid Fund turnback to be received by each municipality an amount, payable upon actuarial determination, required to pay retirement benefits for their municipal employee members from each of the respective municipalities.

(6)(A) The moneys to be transferred from the County Aid Fund and the Municipal Aid Fund shall not be charged against the total of the county aid or municipal aid funds available for distribution to counties or municipalities.

(B) It is the intent of this section that each county pay annually from its County Aid Fund general revenues turnback, and that each municipality pay annually from its Municipal Aid Fund general revenues turnback, the amount of money required to meet the unfunded liability deficit in behalf of its respective county and municipal employee members of the Arkansas Public Employees' Retirement System resulting from the enactment of the laws.

**History.** Acts 1979, No. 373, § 1; A.S.A. 1947, § 12-2504.1; Acts 1999, No. 308, § 2.

**Amendments.** The 1999 amendment, in (a)(1), substituted "liabilities for county constitutional officers or for county employees or municipal employees" for "liabilities of the County Constitutional Officers' Subdivision or of the County Division or Municipal Division" in (a)(1); substi-

tuted "the Local Government Division" for "their respective divisions" in (a)(2)(B); substituted "Local Government Division" for "respective divisions" in (b)(2); substituted "Local Government Division" for "County Constitutional Officers' Subdivision, or to the County Division or Municipal Division" in (b)(3); substituted "Local Government Division" for "County Division" in (b)(4); and made stylistic changes.

#### **24-4-207. Bonds — Payments on vouchers and warrants — Adjustment of erroneous payments.**

(a)(1) The Executive Director of the Arkansas Public Employees' Retirement System and other employees shall make bonds to cover their liability for the faithful performance of their duties, from time to time as provided for by law.

(2) The cost of the bonds shall be paid from moneys provided for the administrative expenses of the Arkansas Public Employees' Retirement System.

(3) The Director of the Department of Finance and Administration is authorized and directed to designate such additional personnel within his office and to provide for such services as are necessary for the proper operation of the system.

(b)(1) The Treasurer of State shall pay annuities and make other disbursements authorized by this act only on vouchers signed by the executive director and on warrants issued thereon by the Auditor of State.

(2) No voucher or warrant shall be drawn on funds of the system unless it has been previously authorized by a specific or general resolution adopted by the Board of Trustees of the Arkansas Public Employees' Retirement System.

(c)(1)(A) Should any change or error in the records of the system or any audit of a member's annuity calculations result in any person's receiving more or less than he would have been entitled to receive had the records or the calculations been correct, the board shall correct the error and, as far as is equitable and practicable, shall adjust the payment in accordance with the provisions of this subsec-

tion and in such manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

(B) However, no monthly adjustment of less than one dollar (\$1.00) shall be made.

(2)(A) The board shall have the right to recover any overpayment that any person may have received from funds of the system, provided the overpayment is determined and the person is so notified within one (1) year of the date of the first overpayment.

(B) If the overpayment is determined at a date later than one (1) year after the date of the first overpayment, the overpayment shall not be recouped by the board unless the overpayment is a result of an error on the part of a member, retirant, or beneficiary.

(C) In all instances where an overpayment is determined, any subsequent payments shall be adjusted to the correct amount.

(3) If it is determined that any person has received an underpayment from the funds of the system, regardless of the date of the determination, the system shall pay in a lump sum to the person the total of any underpayments made prior to the date of determination, and any subsequent payments shall be adjusted to the correct amount.

**History.** Acts 1957, No. 177, § 5; 1959, No. 42, § 5; 1965, No. 153, § 5; 1981, No. 859, § 5; 1983, No. 677, § 6; A.S.A. 1947, § 12-2505; Acts 1993, No. 1093, § 1.

**A.C.R.C. Notes.** The operation of subdivisions (a)(1) and (a)(2) was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subdivisions may again become effective upon cessation of coverage under that program. See § 21-2-703.

Pursuant to § 1-2-207, this section is set out above as amended by Acts 1993, No. 1093, § 1. Subsection (c) of this section was also amended by Acts 1993, No. 432, § 8, to read as follows:

“(c)(1) Should any change or error in the records of the system result in any person’s receiving more or less than he would have been entitled to receive had the records been correct, the board shall correct the error and, as far as is practicable, shall adjust the payment in such manner

that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid. However, no monthly adjustment of one dollar (\$1.00) or less shall be made.

“(2)(A) The board shall have the right to recover any overpayment that any person may have received from funds of the system.

“(B) In any action to recover payment, the system shall have the same status as the State of Arkansas with regard to any statute of limitations.”

**Amendments.** The 1993 amendment, in (c)(1), added “or any audit of a member’s annuity calculations”, added “or the calculations”, added “equitable and”, added “in accordance with the provisions of this subsection and”, and added “However, no monthly adjustment of less than one dollar (\$1.00) shall be made”; rewrote (c)(2); and added (c)(3).

**Meaning of “this act”.** See note to § 24-4-202.

## 24-4-208. Reduction of annuities where funds inadequate.

(a)(1) If, at the end of any fiscal year, the total of the annuities paid during the fiscal year from the State Division of the retirement reserve account is more than twelve percent (12%) of the sum of the balances in the State Division of the employers’ accumulation account and the retirement reserve account at the end of the fiscal year, the annuities



payable to state retirants and beneficiaries in the ensuing fiscal year shall be reduced pro rata.

(2) This reduction shall be made in such a manner that the total of the annuities so reduced shall not exceed twelve percent (12%) of the sum of the balances in the State Division of the employers' accumulation account and the retirement reserve account.

(3) The pro rata reduction shall be applied to all annuities payable to state retirants and beneficiaries during the ensuing fiscal year.

(b)(1) If, at the end of any fiscal year, the total of the annuities paid during the fiscal year from the County Division of the retirement reserve account is more than twelve percent (12%) of the sum of the balances in the County Division of the employers' accumulation account and the retirement reserve account at the end of the fiscal year, then the annuities payable to county retirants and beneficiaries in the ensuing fiscal year shall be reduced pro rata.

(2) This reduction shall be made in such a manner that the total of the annuities so reduced shall not exceed twelve percent (12%) of the sum of the balances in the County Division of the employers' accumulation account and the retirement reserve account.

(3) The pro rata reduction shall be applied to all annuities payable to county retirants and beneficiaries during the ensuing fiscal year.

(c)(1) If, at the end of any fiscal year, the total of the annuities paid during the fiscal year from the Municipal Division of the retirement reserve account is more than twelve percent (12%) of the sum of the balances in the Municipal Division of the employers' accumulation account and the retirement reserve account at the end of the fiscal year, then the annuities payable to municipal retirants and beneficiaries in the ensuing fiscal year shall be reduced pro rata.

(2) This reduction shall be made in such a manner that the total of the annuities so reduced shall not exceed twelve percent (12%) of the sum of the balances in the Municipal Division of the employers' accumulation account and the retirement reserve account.

(3) The pro rata reduction shall be applied to all annuities payable to municipal retirants and beneficiaries during the ensuing fiscal year.

**History.** Acts 1957, No. 177, § 12; 1965, No. 153, § 13; A.S.A. 1947, § 12-1959, No. 42, § 12; 1961, No. 64, § 6; 2512.

#### **24-4-209. Interest.**

(a) At the end of each fiscal year, the Board of Trustees of the Arkansas Public Employees' Retirement System may allow the crediting of interest at an amount to be determined on the balance at the beginning of the fiscal year in the members' deposit account and the employers' accumulation account.

(b) The board shall be required to allow regular interest at the end of each fiscal year on the year's mean balance in the retirement reserve account.

(c) The interest allowed under subsections (a) and (b) of this section shall be credited annually by the board to the accounts and shall be paid from the income account.

**History.** Acts 1957, No. 177, § 13; 1959, No. 42, § 13; 1977, No. 793, § 11; A.S.A. 1947, § 12-2513; Acts 1997, No. 299, § 10.

**Amendments.** The 1997 amendment substituted "the crediting of interest at an amount to be determined" for "regular interest" in (a).

#### **24-4-210. Transfer of funds to cover retired county constitutional officers.**

(a)(1) On July 1, 1979, the actuary for the Arkansas Public Employees' Retirement System shall make a determination of the amount necessary to be collected on a monthly basis during the ensuing one hundred twenty (120) months to set up the Retirement Reserve Fund for all persons retired as elected county constitutional officers on July 1, 1978.

(2) The amount, as determined by the actuary, shall be certified by the Board of Trustees of the Arkansas Public Employees' Retirement System to the Chief Fiscal Officer of the State. He shall in turn cause the amount so certified to be transferred in equal monthly installments from the County Aid Fund or from any other general revenue fund authorized by law for the purpose, from general revenues allocated thereto to counties, to the Arkansas Public Employees' Retirement System Fund for credit to the County Constitutional Officers' Subdivision.

(3) The amounts so certified shall also include regular interest which would have been collected by the system.

(b)(1) As additional persons are retired under the provisions of the County Constitutional Officers' Subdivision after July 1, 1978, the retirement reserve amount as determined by the system's actuary shall be certified to the Chief Fiscal Officer of the State by the board.

(2) The Chief Fiscal Officer of the State shall then cause the amount so certified to be transferred in one (1) lump sum from the County Aid Fund or from any other general revenue fund authorized by law for the purpose, from general revenues allocated thereto to counties, to the Arkansas Public Employees' Retirement System Fund for credit to the County Constitutional Officers' Subdivision.

**History.** Acts 1977, No. 754, § 1; 1977 (Ex. Sess.), No. 14, § 1; 1979, No. 653, § 1; A.S.A. 1947, § 12-2577.1; Acts 1997, No. 299, § 11.

**Publisher's Notes.** Acts 1977 (Ex. Sess.), No. 14, § 2, provided that the purpose and intent of Acts 1977, No. 754 was to provide an appropriate method of funding the current liabilities of the County Elected Constitutional Officer Division (now Subdivision) of the Public Employ-

ees' Retirement System and of funding future liabilities of that division (now subdivision) which might accrue as a result of the retirement after June 30, 1977 of persons who had credited county elected constitutional officer service in the system on June 30, 1977. The section provided further that the repeal of the acts specifically referred to in Acts 1977, No. 754, § 2 would preclude persons who first served in a county elected constitutional office

after July 1, 1977 from participating in or becoming eligible for the special county elected constitutional officer benefits prescribed in those acts and that it was not the intention of the General Assembly in repealing those acts to affect the rights of any person to retire and receive benefits thereunder if the person had retired and was receiving benefits thereunder on June 30, 1977, or had met the service requirements for retirement thereunder on June 30, 1977, or had any county elected constitutional officer credited service in the system on June 30, 1977, and if the person thereafter met the minimum service re-

quirements for retiring and receiving benefits under the County Elected Constitutional Officer Division (now Subdivision). Rather, those persons were to continue to have the right to accumulate credited service and to receive benefits under those acts and the survivors of those persons had the right to receive benefits thereunder the same as if those acts had not been repealed.

**Amendments.** The 1997 amendment, in (a)(3), inserted "regular" following "shall also include" and deleted "at a six percent (6%) annual compound rate" following "collected by the system."

### **24-4-211. Disposition of funds returned to hospitals withdrawing from system.**

Any hospital excluding its employees from the Arkansas Public Employees' Retirement System and receiving a return of any funds as provided in § 24-4-302(3) shall immediately invest the funds in a retirement system or plan for the employees of the hospital.

**History.** Acts 1971, No. 303, § 2; A.S.A. 1947, § 12-2506.1.

## **SUBCHAPTER 3 — MEMBERSHIP**

### **SECTION.**

- 24-4-301. Membership as condition to employment.  
24-4-302. County employees included — Exceptions.  
24-4-303. Membership — Election by mu-

### **SECTION.**

- municipalities — Leased water and sewer utilities.  
24-4-304. Termination of membership — Reemployment.  
24-4-305. [Repealed.]

**Cross References.** Employees of state colleges included in membership, § 24-7-1001.

**Preambles.** Acts 1959, No. 264 contained a preamble which read: "Whereas, under the provisions of Act 177, approved March 7, 1957, a 'member' of the Arkansas State Employees Retirement System is defined as a person who has, by due process, had issued to him a certificate of membership in said System; and

"Whereas, said Act does not cover certain agencies of this State operating out of cash funds; and

"Whereas, under said Act, membership in the System may be terminated only by retirement, by permanent and total disability, by superannuation, by death, or by withdrawal, either voluntary or involun-

tary, from active service in the State of Arkansas; and

"Whereas, such Act is silent as to those persons who, on the effective date of said Act 177, became members of the System and who later transferred their employment from an agency of State covered by said System to another agency of State not so covered, which said latter agency is not covered by any retirement system or plan other than Social Security; and

"Whereas, the apparent oversight in the aforementioned respect in the drafting of said Act 177 has had the unintended effect of denying certain prospective benefits to members of the System who have not withdrawn their contributions in the System but who, nevertheless, have been continuously employed by an agency of this



State whose employees are not otherwise covered by a retirement system or plan authorized by the laws of this State other than Social Security;

"Now, therefore..."

**Effective Dates.** Acts 1957, No. 177, § 17: Mar. 7, 1957. Emergency clause provided: "It is hereby determined by the General Assembly that the establishment of a State Employees Retirement System is necessary in order to retain and recruit efficient and skilled state employees and that the immediate passage of this Act is necessary in order that the Board of Trustees herein created be appointed, organize and establish the necessary rules and forms to be followed upon the establishment of the retirement system herein created on July 1, 1957. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 42, § 16: Feb. 13, 1959. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of county employees in a retirement system is necessary in order to retain and recruit efficient and skilled county employees; that the coverage is best obtained by including the county employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that it is necessary for the Board of Trustees of said Arkansas State Employees Retirement System to organize and establish necessary rules, regulations and forms to effectuate said coverage of county employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 264, § 4: July 1, 1959.

Acts 1961, No. 64, § 9: Feb. 9, 1961. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of municipal employees in a retirement system is necessary in order to retain and recruit efficient and skilled municipal employees; that the coverage is best obtained by permitting the inclusion of municipal employees in the member-

ship of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that the Board of Trustees of the Arkansas State Employees Retirement System shall establish necessary rules, regulations and forms to effectuate said coverage of municipal employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 228, § 3: Mar. 5, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the providing of reasonable and adequate retirement benefits is necessary for municipalities to attract qualified personnel as employees; that programs or plans for such retirement benefits may be available by which certain municipalities may enhance their prospects of attracting and retaining such personnel; and that the immediate passage of this Act is necessary to provide such municipalities with more flexibility in adopting any such available program at the discretion of such municipalities. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 586, § 11: became law without the Governor's signature, Apr. 3, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this act clarify coverage, service, credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and, in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1187, § 3: Feb. 11, 1976. Emergency clause provided: "It is hereby determined

by the General Assembly that existing law relating to membership in the Public Employees Retirement System of employees of a county owned and operated hospital places a serious financial burden on certain hospitals owned and operated by counties within this State; that this Act is designed to permit the governing bodies of such hospitals to elect to exclude their employees from such membership and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 882, § 5: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that municipalities of this State are allowed to enter and withdraw at will from the Arkansas Public Employees Retirement System and this is deemed to be contrary to good public policy. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 57, § 4: Feb. 18, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the democratic process is being unnecessarily burdened by Act 470 of 1977; that the repeal of that Act is immediately necessary; that an undue hardship will result to the detriment of the public health, welfare and safety if this Act does not become effective immediately upon passage thereof. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 376, § 3: Mar. 23, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that state law should be revised to provide for refunds of employer contributions for municipal water and sewer departments in cities of the first class if the department becomes leased from the municipality and withdrawn from the Public Employees Retirement System and that the immediate refund of the contribution will assist cer-

tain municipalities in meeting their financial obligation for providing services to the public. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 998, § 3: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1187 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 50, § 4: Feb. 13, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that existing law relating to membership by county owned and operated hospitals in the Arkansas Public Employees Retirement System is not clear due to the passage of various Acts pertaining thereto and the effect of Act 13 of the first Extraordinary Session of 1977; that hospitals owned and operated by counties are unsure as to their status with regard to the Arkansas Public Employees Retirement System and the present law places a serious financial burden on the hospitals and employees of the hospital within this State; and that this Act is designed to permit the governing bodies of such hospitals to elect to exclude their employees from such membership and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 160, § 6: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is not clear in its meaning and could result in inequities; and that this should be remedied immediately. Therefore, an emergency is hereby



declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 299, § 28: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardiza-

tion, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

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### **24-4-301. Membership as condition to employment.**

(a)(1) Except as set forth in this subsection, all state employees, as defined in § 24-4-101(12), shall become members of the Arkansas Public Employees' Retirement System as a condition of employment.

(2)(A) Membership in the system shall not be mandatory for any member of the General Assembly who notifies the system in writing of his or her decision not to participate. The member may elect not to participate for all or any part of his or her service or benefits as a member of the General Assembly. The member may make the election at any time.

(B) By electing not to be a member of the system, the individual is precluded from earning any credit or receiving any benefit based upon General Assembly service.

(C)(i) A person who is first elected as a member of the General Assembly on or after July 1, 1999, shall have his or her employment covered as a regular state employee member in lieu of coverage under special provisions relating to General Assembly members or to elected officials. However, if the member's only service under an Arkansas retirement plan is service as a member of the General Assembly, then the member must have ten (10) or more years of credited service to be eligible for benefits.

(ii) A person who was first elected as a member of the General Assembly before July 1, 1999, may elect to have his or her employment covered as a regular state employee member in lieu of coverage under special provisions relating to General Assembly members or to elected officials. However, if the member's only service under an Arkansas retirement plan is service as a member of the General Assembly, then the member must have ten (10) or more years of credited service to be eligible for benefits. The member may make the election at any time.

(3) Nothing in this subsection shall abrogate the entitlement to retirement benefits based upon any other covered employment.

(b) All county employees, as defined in § 24-4-101(9), (12), (16), (18), and (31), who are in the employ of a county July 1, 1959, and all persons who became or become county employees in the employ of a county after



June 30, 1959, shall become members of the system as a condition of continuing in or obtaining county employment, as the case may be.

(c) All municipal employees, as defined in § 24-4-101(9), (12), (16), (18), and (31), who are in the employ of a municipality as of the date the municipality becomes a participating public employer and all persons who become municipal employees in the employ of a municipality on or after the date it becomes a participating public employer shall become members of the system as a condition of continuing in or entering the employ of the municipality. However, no employee shall be included whose compensation is less than six hundred dollars (\$600) per annum.

(d)(1) From and after July 1, 1973, all elected and appointed state and county constitutional officials shall be or become members of the system.

(2) Any current member of the system who has service prior to July 1, 1973, as an elected or appointed constitutional official, which service is not credited to his retirement account because the member elected not to become a member of the system during that time, shall receive credited service for that time, but only if:

(A) The person is a contributing member of the system on the date the service is purchased and the person has, at the time of purchase, at least two (2) years of credited service in the system;

(B) The member buys all of the service rendered during the period of time in which he did not participate in the system; and

(C) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he been a member of the system during that period of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

**History.** Acts 1957, No. 177, § 6; 1959, No. 42, § 6; 1961, No. 64, § 3; 1973, No. 586, § 1; 1975, No. 577, § 1; A.S.A. 1947, § 12-2506; Acts 1987, No. 57, § 1; 1997, No. 299, § 12; 1999, No. 705, § 1.

**Amendments.** The 1997 amendment rewrote (d)(2)(C); and deleted former (d)(2)(D).

The 1999 amendment rewrote (a)(2).

## **24-4-302. County employees included — Exceptions.**

All counties in this state shall be subject to the provisions of this act as participating public employers, and all counties shall, from and after July 30, 1959, include their employees, as defined in § 24-4-101(9), (12), (16), (18), and (31), in the membership of the Arkansas Public Employees' Retirement System, except as follows:

(1) Any newly constructed county-owned and operated hospital which was first placed in use after December 1, 1975, may elect, by at least a two-thirds ( $\frac{2}{3}$ ) vote of its governing body, to exclude the employees of the hospital from membership in the system, but only if

the election was certified to the Board of Trustees of the Arkansas Public Employees' Retirement System prior to July 1, 1976; however, any hospital electing to exclude its employees from membership under the provisions of this subdivision (1) shall require its employees to become members of the system effective July 1, 1978;

(2) A hospital which is owned but not operated by a county and which, subsequent to June 30, 1963, becomes operated by a county, may elect, by at least a two-thirds ( $\frac{2}{3}$ ) vote of its governing body, to exclude its employees of the hospital from membership in the system, but only if the election is certified to the board within a period of one (1) year from and after the date the hospital becomes operated by a county;

(3)(A) In the event the governing body of a county-owned and operated hospital elects to exclude its employees from membership in the system, the employees of the hospital shall thereupon cease to be members of the system.

(B) Any balances standing to the credit of the members in the members' deposit account shall be returned to the members.

(C) If any hospital elects, after February 1, 1971, and prior to July 1, 1972, to exclude its members from the system, the contributions made to the system by or on behalf of the hospital that are in excess of the amounts determined by actuarial calculations to be necessary to fund the outstanding obligations of the system to employees of the withdrawing hospital shall be returned to the withdrawing hospital;

(4)(A) A hospital which, as of June 30, 1988, is owned and operated by a county and which has failed to participate in the system may elect to exclude the employees of the hospital from membership in the system by at least a two-thirds ( $\frac{2}{3}$ ) vote of its governing body.

(B) Neither employees of the hospital nor the hospital shall be liable or eligible to pay any past contribution which may have been due the system, but only if the election is certified to the board prior to July 1, 1990.

**History.** Acts 1957, No. 177, § 6; 1959, No. 42, § 6; 1961, No. 64, § 3; 1963, No. 56, § 1; 1969, No. 476, § 1; 1971, No. 303, § 1; 1975 (Extended Sess., 1976), No. 1187, § 1; A.S.A. 1947, § 12-2506; reen. Acts 1987, No. 998, § 1; 1989, No. 50, § 1.

**A.C.R.C. Notes.** Part of this section was reenacted by Acts 1987, No. 998, § 1. Acts 1987, No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal

any other 1987 legislation and that such other legislation would be controlling in the event of conflict.

**Meaning of "this act".** Acts 1957, No. 177, codified as §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, 24-4-606.

### **24-4-303. Membership — Election by municipalities — Leased water and sewer utilities.**

(a)(1) Any municipality may elect to become a participating public employer and to cover its employees under the Arkansas Public Employees' Retirement System either by a three-fifths ( $\frac{3}{5}$ ) vote of its

governing body or by a majority vote of the qualified voters of the municipality.

(2) The clerk or recorder of each municipality electing to become a participating public employer shall certify the vote to the Board of Trustees of the Arkansas Public Employees' Retirement System within ten (10) days after the vote of the governing body or the canvass of the votes of the electorate, as the case may be.

(3) The effective date of coverage under the system shall be either the first day of the calendar month next following receipt by the board of the election results or the July 1 next following the receipt, as determined by the vote.

(b)(1) Any municipality which has, as of March 28, 1981, taken its first vote to withdraw from participation shall be eligible to withdraw under the provisions of this section if the final vote to withdraw is certified to the board before July 1, 1981.

(2) The effective date of withdrawal must be before January 1, 1982.

(c)(1) When the water and sewer department of a municipal participating public employer in a city of the first class becomes leased from the municipality and operated by a nonprofit corporation, the mayor shall notify the board in writing within ten (10) days after the utility ceases to be operated by the municipality and may request a refund of the employer contributions paid to the system by the municipality on behalf of the utility employees during their period of employment with the utility.

(2) As soon as practicable after notification and request, the board shall arrange for a determination by its actuary or investment counselor of the lump sum present value of future system benefits for retirants, beneficiaries, and inactive members entitled to a deferred annuity from the employment with the utility while it was operated by the municipality.

(3) The refund requested shall be subject to the following:

(A)(i) If the present value is more than the present system assets arising from the municipality's applicable contributions, then the difference determined by the system's actuary shall be paid to the system by the municipality, either in a single sum or in a series of actuarially equivalent payments over a period not to exceed ten (10) years.

(ii) The payment method shall be elected by the municipality from reasonable optional payment methods to be offered by the board;

(B) If the present value is less than the present system assets arising from the municipality's applicable contributions, then the difference determined by the system's actuary shall be paid by the system to the municipality, either in a single sum or in a series of actuarially equivalent payments over a period not to exceed ten (10) years as the board shall determine;

(C) The board shall withhold twenty percent (20%) from the municipality's applicable employer contributions and shall maintain that amount in the employer accumulation account for noncontribu-



tory utility employees who may reenter the system and have their forfeited utility service restored to their credit;

(D) From and after the date the utility ceased to be operated by the municipality:

(i) The system shall have no further obligation for payment of benefits for the municipality's employees, which benefits would be based on service with the utility, except for any refund of contributions due a former member from the members' deposit account; and

(ii) The system shall retain the obligation for payment of benefits for the retirant and beneficiaries and inactive members entitled to a deferred annuity from employment with the utility while it was operated by the municipality, except that the retained obligation shall be reduced by any payment overdue or not paid to the system by the municipality for service of its utility employees before the municipality ceased operating the utility.

**History.** Acts 1957, No. 177, § 6; 1961, No. 64, § 3; 1971, No. 228, § 1; 1973, No. 586, § 2; 1981, No. 882, § 1; A.S.A. 1947, § 12-2506; Acts 1987, No. 376, § 1.

**A.C.R.C. Notes.** As enacted, subsection (c) began: "From and after April 1, 1985."

**Meaning of "this act".** See note to § 24-4-302.

#### **24-4-304. Termination of membership — Reemployment.**

(a) Except as otherwise provided in this act, should any member no longer be employed by a public employer for any reason except his retirement, as provided in this act, or his death, he shall thereupon cease to be a member of the Arkansas Public Employees' Retirement System, and his credited service at that time shall be forfeited by him.

(b)(1) In the event the person again becomes an employee of a participating public employer, he shall again become a member of the system.

(2)(A) His credited service which required member contributions and then was forfeited by him at termination of covered employment shall be restored to his credit if he returns to the members' deposit account the amounts he may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment, which repayment shall be made according to such rules and regulations as the Board of Trustees of the Arkansas Public Employees' Retirement System shall adopt.

(B) His credited service which did not require member contributions and then was forfeited by him at termination of covered employment shall be restored to his credit.

(c) Upon a member's retirement or death, he shall thereupon cease to be a member of the system.

(d)(1) In the event a person is a former member and becomes an employee of a public employer covered by a retirement system which is not a reciprocal retirement system, he shall become eligible to be a member of the system for the limited purpose of purchasing his previously forfeited service.

(2) His credited service which required member contributions and then was forfeited by him at termination of covered employment shall be restored to his credit if he returns to the members' deposit account the amounts he may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(3) The repayment shall be made according to such rules and regulations as the board shall adopt.

**History.** Acts 1957, No. 177, § 7; 1959, No. 42, § 7; 1971, No. 190, § 1; A.S.A. 1947, § 12-2507; Acts 1989, No. 160, § 2; 1993, No. 1104, § 1.

**Amendments.** The 1993 amendment added (d).

**Meaning of "this act".** See note to § 24-4-302.

### CASE NOTES

#### Eligibility After Retirement.

Retired employee ceased to be a member of system and was not eligible for

pension increase enacted after his retirement. *Snuggs v. Board of Trustees*, 241 Ark. 402, 407 S.W.2d 933 (1966).

#### 24-4-305. [Repealed.]

**Publisher's Notes.** This section, concerning restoration to system of persons transferred to noncovered agencies, was repealed by Acts 1997, No. 299, § 26. The

section was derived from Acts 1959, No. 264, §§ 1-3; A.S.A. 1947, §§ 12-2519 — 12-2521.

### SUBCHAPTER 4 — EMPLOYER AND EMPLOYEE CONTRIBUTIONS

#### SECTION.

24-4-401. Contributions of members.

24-4-402. Contributions of state and

counties — Accounts of retirement system.

**Effective Dates.** Acts 1957, No. 177, § 17; Mar. 7, 1957. Emergency clause provided: "It is hereby determined by the General Assembly that the establishment of a State Employees Retirement System is necessary in order to retain and recruit efficient and skilled state employees and that the immediate passage of this Act is necessary in order that the Board of Trustees herein created be appointed, organize and establish the necessary rules and forms to be followed upon the establishment of the retirement system herein created on July 1, 1957. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 42, § 16; Feb. 13, 1959. Emergency clause provided: "It is hereby

determined by the General Assembly that the coverage of county employees in a retirement system is necessary in order to retain and recruit efficient and skilled county employees; that the coverage is best obtained by including the county employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that it is necessary for the Board of Trustees of said Arkansas State Employees Retirement System to organize and establish necessary rules, regulations and forms to effectuate said coverage of county employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1961, No. 64, § 9; Feb. 8, 1961.

Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of municipal employees in a retirement system is necessary in order to retain and recruit efficient and skilled municipal employees; that the coverage is best obtained by permitting the inclusion of municipal employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that the Board of Trustees of the Arkansas State Employees Retirement System shall establish necessary rules, regulations and forms to effectuate said coverage of municipal employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 153, § 15: Mar. 9, 1965. Emergency clause provided: "This act shall take effect and be in force from the date of its approval."

Acts 1969, No. 632, § 7: May 27, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 185 of 1969 which provides for an increase in contributions to and benefits payable under the State Employees Retirement System to be effective on July 1, 1969 did not contain an emergency clause and therefore will not be effective until ninety (90) days after adjournment of the Regular Session; that due to the extension of the Regular Session as authorized in the Constitution, acts not having an emergency clause will not be effective until well after July 1; and that it is essential to the proper administration of the State Employees Retirement System that the increase in contributions to and benefits payable under the State Employees Retirement System take effect on July 1, 1969. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 103, § 8: Feb. 17, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that in order to provide for an orderly retirement for public employees in Arkansas and for the Board of Trustees of the Public Employees Retirement System

to have ample time for the implementation of the provisions of this act, the General Assembly hereby determines that the immediate passage of this act is essential. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 666, § 14: Apr. 10, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act change the rate of contributions, change the value of service credits and establish new types of benefits under the Arkansas Public Employees Retirement System; and, in order to enable persons to receive proper benefits thereunder without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 907, § 22: Apr. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 299, § 28: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal



administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate

preservation of the public peace, health, and safety, shall become effective July 1, 1997.”

### **24-4-401. Contributions of members.**

(a)(1) The members' deposit account shall be the account in which members' contributions shall be accumulated with interest as stipulated by subsection (a) of § 24-4-209 and from which shall be made transfers and refunds of contributions or accumulated contributions as provided in this act.

(2) Upon the retirement of a member, his accumulated contributions standing to his credit in the members' deposit account shall be transferred to the retirement reserve account.

(b)(1) The contributions of a member shall be six percent (6%) of his annual compensation.

(2) The officer responsible for making up the payroll for each public employer shall cause the contributions provided for in this section to be deducted from the compensation of each member in the employ of a public employer.

(3) The contributions shall be deducted on each and every payroll, for each and every payroll period, from the date of the member's entrance into the Arkansas Public Employees' Retirement System to the date his membership terminates.

(4) When deducted, each of the amounts shall be paid by the public employer to the Arkansas Public Employees' Retirement System Fund and shall be credited to the individual account in the members' deposit account of the member from whose compensation the contributions were deducted.

(5) The contributions provided for in this section shall be made notwithstanding that the minimum salary or wages for any member shall be thereby changed.

(6) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(7) Payment of a member's compensation less deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered to a public employer by the member, except as to benefits provided by this act.

(c)(1) The official designated by the board of each participating public employer shall remit to the board the contributions deducted from the compensations of members in the employ of the employer.

(2) The remittances shall be made in such manner and form, shall be made in such frequency, and shall from time to time be accompanied by such supporting data as the board shall prescribe.

(d) It is expressly guaranteed that all members' contributions shall be held in trust for the exclusive benefit of the individual members and that no part of the funds shall ever be used for any other purpose.

**History.** Acts 1957, No. 177, § 8; 1959, No. 42, § 8; 1965, No. 153, § 6; 1967, No. 108, § 2; 1969, No. 632, § 1; 1971, No. 103, § 2; 1973, No. 666, § 2; 1975, No. 907, § 10; A.S.A. 1947, §§ 12-2508, 12-2508.1; Acts 1997, No. 299, § 13.

**Amendments.** The 1997 amendment substituted "with interest as stipulated by subsection (a) of § 24-4-209" for "at regular interest" in (a)(1).

**Meaning of "this act".** Acts 1957, No. 177, codified as §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, 24-4-606.

## CASE NOTES

### Effect of Retirement.

Employee who retired prior to pension increase no longer had individual account when increase became effective and was

not eligible for increased benefits. *Snuggs v. Board of Trustees*, 241 Ark. 402, 407 S.W.2d 933 (1966).

## 24-4-402. Contributions of state and counties — Accounts of retirement system.

(a)(1) The employers' accumulation account shall be the account in which shall be accumulated the contributions made by public employers to the Arkansas Public Employees' Retirement System.

(2) Upon the retirement of a member, the difference between his annuity reserve and his accumulated contributions standing to his credit in the members' deposit account shall be transferred from the employers' accumulation account to the retirement reserve account.

(b)(1) The state employer contributions shall be a set percentage rate of the compensations of state employees who are members. The rate of percentage shall be set by the Board of Trustees of the Arkansas Public Employees' Retirement System as provided for by § 24-3-103.

(2) The state's contributions, when paid into the Arkansas Public Employees' Retirement System Fund, shall be credited to the employers' accumulation account.

(c)(1) The employer contributions to be paid by each participating public employer, other than the state, shall be a set percentage rate of the compensations of its employees who are members. The rate of percentage shall be set by the board as provided for by § 24-3-103.

(2) The participating public employers' contributions, when paid into the fund, shall be credited to the employers' accumulation account.

(d)(1) The retirement reserve account shall be the account from which all annuities shall be paid as provided for in this act.

(2) If a disability retirant returns to the employ of a public employer, his annuity reserve at that time shall be transferred from the retirement reserve account to the members' deposit account and the employers' accumulation account in the same proportion as the annuity reserve was originally transferred to the retirement reserve account.

(e)(1) The income account shall be the account to which shall be credited all interest, dividends, and other income from investments of the system, all gifts and bequests received by the system, and all other

moneys, the disposition of which is not specifically provided for in this act.

(2) There shall be paid or transferred from the income account all amounts required to credit regular interest to the various divisions of the members' deposit account, employers' accumulation account, and the retirement reserve account, as provided in this act.

(3) Whenever the board determines that the balance in the income account is more than sufficient to cover current charges to the account, the excess may be transferred by the board to any of the other accounts of the system to cover special needs of the accounts.

**History.** Acts 1957, No. 177, § 9; 1959, No. 42, § 9; 1961, No. 64, § 4; 1967, No. 175, § 1; 1969, No. 632, § 2; 1971, No. 103, § 3; 1973, No. 666, § 3; 1975, No. 907, § 11; A.S.A. 1947, §§ 12-2509, 12-2509.1; Acts 1997, No. 299, § 14.

**Amendments.** The 1997 amendment, in (b)(1) and (c)(1), substituted "a set per-

centage rate" for "ten percent (10%)" in the first sentence and added the last sentence; and deleted former (b)(2) and (3) and redesignated former (b)(4) as present (b)(2).

**Meaning of "this act".** See note to § 24-4-401.

## SUBCHAPTER 5 — CREDITED SERVICE AND ELIGIBILITY FOR BENEFITS

### SECTION.

- 24-4-501. Prior service credit generally — Straight life annuity.
- 24-4-502 — 24-4-506. [Repealed.]
- 24-4-507. Eligibility for benefits — Credited service.
- 24-4-508. Eligibility for benefits — Retirement generally.
- 24-4-509. [Repealed.]
- 24-4-510. Eligibility for benefits — Deferred and early annuities.
- 24-4-511. Eligibility for benefits — Disability retirement.
- 24-4-512. Eligibility for benefits — Prior service credit for county members.

### SECTION.

- 24-4-513. Minimum period of service for payment of benefits.
- 24-4-514. Credit for educational leave.
- 24-4-515. [Repealed.]
- 24-4-516. Credit for lost credited service due to work-related injury.
- 24-4-517. State service under a federal grant.
- 24-4-518. Credit for service as sheriff.
- 24-4-519. Current service credit — Nonuniformed employees.
- 24-4-520. Termination required for retirement.

**Cross References.** Law enforcement officers, effect of emergency duty on benefits, § 12-75-130.

**Effective Dates.** Acts 1957, No. 177, § 17; Mar. 7, 1957. Emergency clause provided: "It is hereby determined by the General Assembly that the establishment of a State Employees Retirement System is necessary in order to retain and recruit efficient and skilled state employees and that the immediate passage of this Act is necessary in order that the Board of Trustees herein created be appointed, organize and establish the necessary rules and forms to be followed upon the estab-

lishment of the retirement system herein created on July 1, 1957. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 42, § 16; Feb. 13, 1959. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of county employees in a retirement system is necessary in order to retain and recruit efficient and skilled county employees; that the coverage is



best obtained by including the county employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that it is necessary for the Board of Trustees of said Arkansas State Employees Retirement System to organize and establish necessary rules, regulations and forms to effectuate said coverage of county employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 153, § 15: Mar. 9, 1965. Emergency clause provided: "This act shall take effect and be in force from the date of its approval."

Acts 1967, No. 308, § 4: Became law without Governor's signature, Mar. 13, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to the efficient operation of good government that qualified employees be recruited and retained; that a liberal retirement system is conducive to retaining such qualified employees; that the giving of a prior service credit will encourage employees to continue in the State's service; that it is necessary for the Board of the Arkansas State Employees Retirement System to draft special forms and institute new procedures in order to implement the terms of this Act; and that it is necessary, in order to assure the retention and recruitment of skilled employees, that this Act become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary to the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 228, § 3: Mar. 10, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that the providing of reasonable and adequate retirement benefits for members of the General Assembly is essential to encourage qualified citizens of this State to seek election to serve in the General Assembly; that the existing provisions of the State Employees Retirement Law deprive members of the House and Senate who have long tenure in the

General Assembly of receiving benefits commensurate with the benefits of members having fewer years of service; and that the immediate passage of this Act is necessary to correct this situation. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 313, § 5: became law without Governor's signature, Mar. 25, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of the members of the State Employees Retirement System have not obtained credited service in the retirement system for prior service rendered as a State or County employee and that the immediate passage of this Act is necessary to enable such employees to obtain necessary credit and to pay such necessary contribution therefor. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after the date of its passage and approval."

Acts 1973, No. 586, § 11: became law without Governor's signature, Apr. 3, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this act clarify coverage, service, credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and, in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 907, § 22: Apr. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligi-

ble for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 663, § 8: Mar. 23, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 210, § 6: Feb. 23, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that some county elected constitutional officers in the State served in the armed forces of the United States prior to their election as a county officer; that it is appropriate that such officials who are serving as county elected constitutional officers on the effective date of this Act be permitted to purchase county elected constitutional officer credited service in the Public Employees Retirement System for up to two (2) years of such military service; that this Act is designed to authorize such purchase and to prescribe the procedure therefor, and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 592, § 5: became law without Governor's signature, Mar. 19, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that under the present law, municipalities are authorized to withdraw from the Public Employees Retirement

System and to establish their own retirement system; that some municipalities have withdrawn and upon withdrawal, the employee and employer contributions to the System after making certain adjustments for accrued liabilities to the System are returned to the municipality and/or the respective employees and the employee's credited service in the system is forfeited; that in many instances employees of such withdrawing municipalities withdraw from the Public Employees Retirement System; that some of such employees are subsequently employed by another participating public employer and are required to again become a member of the Public Employees Retirement System and the present law is not clear with respect to the right of such employees to have their forfeited credited service reinstated; that this Act is designed to assure this right to such employees and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 859, § 19: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of Act 177 of 1957, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 757, § 6: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the state agencies and the Arkansas Public Employees' Retirement System; that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall



be in full force and effect from and after July 1 1991."

Acts 1993, No. 1093, § 6: Apr. 13, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that immediate passage and approval of this act is necessary to render finality to annuity determinations made by the Public Employees Retirement System Board and to prevent the hardship and instability that results from the recoupment of the overpayments of incorrectly calculated annuity payments to retired State employees for a protracted period of time. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 882, § 5: Apr. 3, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that certain members of the Public Employees' Retirement System are being denied retirement service credit due to lost time at work from disabling diseases or physical injuries through no fault of their own; that this restriction is inequitable and should be changed to allow those employees to purchase the service credit for the equivalent amount of that leave without pay time; and that this restriction should be removed as soon as practicable to avoid an undue hardship to injured public employees. Therefore, in order to reduce the inequities of the Public Employees' Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 962, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the certain members of the Public Employees' Retirement System are being denied retirement service credit due to work-related injuries through no fault of their own; that this restriction is inequitable and should be changed to allow those employees to recover the service credit for that time; and that this restriction should be removed as soon as practi-

cable without delay in order to avoid an undue hardship to retiring public employees. Therefore, in order to reduce the inequities of the Public Employees' Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 870, § 6: Mar. 25, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that Act 846 of 1995 permitted elected count sheriffs who are retirants in the state police retirement system to accumulate credited service in the Public Employees' Retirement System; that the act failed to provide for the purchase of prior service; and that this has caused an inequity that should be immediately corrected. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1460, § 6: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that for the effective administration of this act and to avoid undue harm to members of the Arkansas Public Employees' Retirement System it is



necessary for this act to become effective immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is nei-

ther approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

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### **24-4-501. Prior service credit generally — Straight life annuity.**

(a)(1)(A) Any member of the Arkansas Public Employees' Retirement System who became a member of the system on July 1, 1957, in the case of a state employee, or who became a member of the system on July 1, 1959, in the case of a county employee, and who was continuously employed by a public employer to June 8, 1961, upon application and submission of proper proof to the Board of Trustees of the Arkansas Public Employees' Retirement System, as authorized by §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, may receive prior service credit for any service rendered a public employer, as defined in § 24-4-101, in the State of Arkansas in a position covered by some other existing retirement system of this state authorized by law, other than social security.

(B) Prior service credit may be received only if the member does not have standing to his credit in the other retirement system for the same period of time and is no longer a member of, or eligible for membership in, or receiving benefits from, the other retirement system or systems.

(2) Any active member of the Arkansas Public Employees' Retirement System who would otherwise be eligible for free prior service credit under the provisions of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, because of employment with a public employer or with the public schools but who was drafted and was serving in the military on active duty on a date which would have made the member eligible for the free prior service had he been an employee on that date shall receive, upon application and submission of proper proof to the board, free prior service credit for employment prior to July 1, 1957, in the case of a state, municipal, or school employee, or prior to July 1, 1959, in the case of a county employee, if the following conditions are met:

(A) The member was an employee of a public employer immediately preceding his involuntary service in the armed forces; and

(B) He was reemployed as an employee within six (6) months of his discharge from the armed forces of the United States.

(3) For the purposes of this subsection, prior service credit eligibility dates are:

- (A) July 1, 1957, for state employees;
- (B) July 1, 1959, for county employees;
- (C) October 1, 1957, and October 1, 1965, for school employees;
- (D) July 1, 1957, and January 1, 1963, for colleges and universities; or

(E) The date the employer begins participation in the system for municipalities.

(b) When a member of the Arkansas Public Employees' Retirement System retires from the system and is entitled to a straight life annuity payable from the funds of the system and has been given prior service credit in a position as set forth in subsection (a) of this section, then the Executive Secretary of the Board of Trustees of the Arkansas Public Employees' Retirement System shall, on July 1 of each year, direct the Treasurer of State to transfer from the fund from which the member's salary was paid, for the period of time employed in positions covered by some other retirement system of this state, an amount necessary to prorate the benefits between the funds of the Arkansas Public Employees' Retirement System and the fund from which the member was paid, in accordance with the portions of his credited service acquired under each fund, to the Arkansas Public Employees' Retirement System Fund.

**History.** Acts 1961, No. 119, §§ 1, 2; A.S.A. 1947, §§ 12-2522, 12-2523; Acts 1987, No. 32, § 1.

## **24-4-502 — 24-4-506. [Repealed.]**

**Publisher's Notes.** These sections, concerning credit for prior service as public school teacher; military service credit generally; military service credit for elected county constitutional officers; actuarial valuation of impact of military service credit; provision for unfunded liability deficit; and restoration of credited service to employee of withdrawing municipality upon subsequent covered employment, were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-502. Acts 1967, No. 308, §§ 1, 2; A.S.A. 1947, §§ 12-2547, 12-2548.

24-4-503. Acts 1947, No. 56, §§ 1-3; A.S.A. 1947, §§ 12-2323 — 12-2325.

24-4-504. Acts 1979, No. 210, §§ 1-3; A.S.A. 1947, §§ 12-2524.7 — 12-2524.9.

24-4-505. Acts 1979, No. 210, § 4; A.S.A. 1947, § 12-2524.10.

24-4-506. Acts 1981, No. 592, §§ 1, 2; A.S.A. 1947, §§ 12-2506.8, 12-2506.9.

## **24-4-507. Eligibility for benefits — Credited service.**

(a)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System shall determine, by appropriate rules and regulations consistent with the provisions of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, the amount of service to be credited any member for any fiscal year.

(2)(A) For periods of time prior to July 1, 1991, in no case shall less than ten (10) days of service rendered by a member in any calendar

month be credited as a month of service; nor shall less than eleven (11) months of service rendered by a member in any fiscal year be credited as a year of service unless the member is employed by the state blind and deaf schools, the state colleges and universities, and the public schools of the state, in which case nine (9) months would constitute a year of credited service.

(B) For periods of time prior to July 1, 1991, in no case can less than nine (9) months of service rendered in any fiscal year be credited as a full year of service.

(3)(A) Beginning July 1, 1992, and thereafter, service rendered by a member in any calendar month shall be credited as service based upon the member's number of hours of service in such month and in accordance with the following schedule:

Eighty (80) or more hours of service .....	One (1) month
Sixty (60) hours up to less than eighty	
(80) hours .....	Three-fourths ( $\frac{3}{4}$ ) month
Forty (40) hours up to less than sixty	
(60) hours .....	One-half ( $\frac{1}{2}$ ) month
Twenty (20) hours up to less than forty	
(40) hours .....	One-quarter ( $\frac{1}{4}$ ) month
Less than twenty (20) hours .....	No credit

(B) Beginning July 1, 1991, in no case shall less than eleven (11) months of service rendered by a member in any fiscal year be credited as a full year of service, except that such minimum shall be lowered to nine (9) months for a member whose covered employment is employment with the state blind and deaf schools, the state colleges and universities, and the public schools.

(C) Any member who retires on or after July 1, 1999, shall receive six (6) months of service credit for each full semester of service rendered in any fiscal year for covered employment with the state blind and deaf schools, the state colleges and universities, and the public schools of the state.

(4) Prior service credits shall not be granted to any member who did not become a member of the Arkansas Public Employees' Retirement System on the date his or her public employer became a participating public employer, nor shall current service credit be granted any member for any period of time not covered by accumulated contributions standing to his credit in the members' deposit account, except as otherwise provided in §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606.

(b)(1) A member's credited service shall include periods of time, not to exceed a total of five (5) years, during which his employment with a public employer was, or is, interrupted due to service rendered by him in the armed forces of the United States during a national emergency, but only if:



(A) The person was, or is, an employee of a public employer at the time he entered, or enters the armed services;

(B) He was, or is, reemployed by a public employer within six (6) years from and after the termination of the armed service required of him; and

(C) He returns to the members' deposit account the amounts withdrawn by him, together with regular interest from the date of withdrawal to the date of repayment.

(2) In any case of doubt as to the period to be so credited any member, the board shall have the final power to determine the period.

(3) During the period of a member's armed service and until his return to the employ of a public employer, a member's contributions to the system shall be suspended.

(4) In no case shall the period of armed service be included in computing a member's average compensation.

**History.** Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1965, No. 153, §§ 9, 10; 1969, No. 313, § 3; 1975, No. 907, § 6; 1981, No. 859, § 3; A.S.A. 1947, § 12-2510; Acts 1991, No. 757, § 1; 1999, No. 325, § 7.

**Amendments.** The 1999 amendment added (a)(3)(C); and made stylistic changes.

#### **24-4-508. Eligibility for benefits — Retirement generally.**

(a) Any member may voluntarily retire upon his written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, that he desires to be retired if that member has:

(1) Twenty-eight (28) or more years of credited service regardless of age;

(2) Attained or attains age sixty (60) and has twenty (20) or more years of credited service; or

(3) Attained or attains age sixty-five (65) and has five (5) or more years of credited service, except for members of the General Assembly who must have ten (10) or more years of credited service if they only have service as a member of the General Assembly.

(b) Upon his retirement, he shall receive an annuity provided for in § 24-4-601.

(c)(1) Total credited service to qualify for a benefit may be service with the Arkansas Public Employees' Retirement System and service with the University of Arkansas System, which service is covered by the retirement system recognized by the University of Arkansas.

(2) The benefit payable by the system shall be based on credited service in the system and on the final average compensation in the system. However, should a member have less than four (4) years of credited service in the system, "final average compensation" means the monthly average of pays to him during his total years of service in the system.

(d)(1)(A) An annuity determination shall be made promptly by the system upon a member's filing a written application for retirement in accordance with subsection (a) of this section.

(B) Such determination shall include the member's total years of credited service, the specific factors used to make the determination, the base annuity payable to the member, and the amount of annuity payments, if any, payable under the annuity options of § 24-4-606.

(C) If the member is not eligible for a retirement annuity, the determination shall state the reasons for such determination.

(2)(A) The board may reconsider a benefit determination in accordance with § 24-4-207(c). Except as provided for the calculation of the annual cost-of-living adjustment under § 24-4-607, no reconsideration may be made after one (1) year from the date of the original determination.

(B)(i) If the annuity amount is decreased upon the reconsideration, the matters involved in the decrease shall be set forth in writing and shall be subject to review upon the filing of an appeal thereof by the member or annuity recipient.

(ii) The redetermination shall be deemed to be final and binding on all parties unless, within twenty (20) days after the mailing of notice of the redetermination to the member's last known address, or twenty (20) days after personal delivery of such notice to the member, an appeal thereof is filed with the Executive Director of the Arkansas Public Employees' Retirement System.

(3) The director shall promptly hear all appeals of annuity determinations or redeterminations and shall conduct such hearings in accordance with procedures set forth by the board.

**History.** Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1965, No. 153, § 7; 1969, No. 228, § 1; 1985, No. 938, § 2; A.S.A. 1947, § 12-2510; Acts 1993, No. 1093, § 2; 1997, No. 299, § 15; 1999, No. 104, § 2; 1999, No. 627, § 1.

**Amendments.** The 1993 amendment added (d).

The 1997 amendment substituted "four (4) years" for "five (5) years" in (c)(2).

The 1999 amendment by No. 104 sub-

stituted "Twenty-eight (28) or more years" for "Thirty (30) or more years" in (a)(1).

The 1999 amendment by No. 627 in (a)(3), substituted "five (5) years" for "ten (10) years", added the exception; and made stylistic changes.

**Cross References.** Membership in Arkansas Public Employees' Retirement System for certain University of Arkansas employees, § 24-7-1003.

## 24-4-509. [Repealed.]

**Publisher's Notes.** This section, concerning eligibility for benefits — mandatory retirement, was repealed by Acts 1997, No. 299, § 26. The section was de-

rived from Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1985, No. 938, § 5; A.S.A. 1947, § 12-2510.

**24-4-510. Eligibility for benefits — Deferred and early annuities.**

(a)(1) A member with twenty (20) or more years of credited service who left or leaves the employ of a public employer prior to his attainment of age sixty (60) for any reason except his retirement or death shall be entitled to an annuity provided for in § 24-4-601, but only if he does not withdraw his accumulated contributions from the members' deposit account.

(2) His annuity shall begin the first day of the calendar month next following the month after his attainment of age sixty (60) upon his written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, he desires to be retired.

(b)(1) A member who has at least five (5) years but less than twenty (20) years of credited service who leaves the employ of a public employer prior to his attainment of age sixty-five (65) for any reason except his retirement or death and who does not withdraw his accumulated contributions from the members' deposit account shall be entitled to an annuity provided for in § 24-4-601.

(2) His annuity shall begin the first day of the calendar month next following the month after his attainment of age sixty-five (65) upon his written application filed with the board setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he desires to be retired.

(c)(1) In place of his deferred annuity provided for in subsection (a) or (b) of this section, a member or former member who attains or has attained age fifty-five (55) may elect to receive an immediate early annuity upon his written application therefor on a form furnished by the board and filed with the board.

(2) The early annuity shall be effective the first day of the calendar month next following the later of termination of public employer employment or thirty (30) days after receipt by the board of the written application.

(3) The amount of the early annuity shall be the amount of deferred annuity reduced by one-half of one percent (0.5%) multiplied by the number of months by which the first payment due date of the early annuity is earlier than the first payment due date of the deferred annuity.

**History.** Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1965, No. 153, § 8; 1973, No. 586, § 3; 1975, No. 907, § 14; 1979, No. 715, § 3; 1985, No. 938, §§ 3, 4; A.S.A. 1947, § 12-2510; Acts 1999, No. 627, § 2.

**Amendments.** The 1999 amendment substituted "five (5) years" for "ten (10) years" in (b)(1); and made stylistic changes.



**24-4-511. Eligibility for benefits — Disability retirement.**

(a)(1)(A) Except for members of the General Assembly who need at least ten (10) years of credited service, any active member with five (5) or more years of actual service, including credited service for at least eighteen (18) of the twenty-four (24) calendar months immediately preceding his disability, who becomes totally and permanently physically or mentally incapacitated for any suitable job or position as an employee as a result of a personal injury or disease, may be retired by the Board of Trustees of the Arkansas Public Employees' Retirement System upon written application filed with the board by or on behalf of the member.

(B) This may occur only if after a medical examination of the member made by or under the direction of a physician or physicians designated by the board, the physician reports to the board in writing that the member is physically or mentally totally incapacitated for any suitable job or position, that the incapacity will probably be permanent, and that the member should be retired.

(2) Upon filing the proper application and meeting the requirements stated in this section, the disability annuity shall be effective the first day of the calendar month next following the later of either his termination of active membership or the onset date of the qualifying disability.

(b)(1) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-4-601, and his disability retirement and annuity shall be subject to the provisions of subsections (c) and (d) of this section.

(2) When a person retired on disability under §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, reaches the age required for full age and service retirement benefits, his retirement status shall be changed from that of disability to superannuation, and he shall be eligible to return to employment subject to the provisions of § 24-2-406 [repealed].

(3)(A)(i) A person who receives or who is receiving a benefit solely because of disability but who meets or has met the elected credited service and total credited service requirement but not the age requirement for a benefit provided for a member with elected service, upon attaining the required age, may have his disability retirement status changed to superannuation.

(ii) His benefit shall be the age and service amount provided by his credited service in effect before termination of employment because of disability.

(B) The change must be made by formal request of the retirant to the board on a form to be furnished by the Arkansas Public Employees' Retirement System and filed with the system setting forth at what time, not less than thirty (30) days nor more than ninety (90)

days subsequent to the execution and filing thereof, he desires the change to be effective.

(C) In no event shall the change be effective earlier than the first of the month following attainment of the age required for the age and service benefit provided by his amount of credited service, and, after the effective date, he shall be eligible to return to employment subject to the provisions of § 24-2-101 [repealed] and § 24-2-406 [repealed].

(c)(1) At least once each year during the first five (5) years following a member's retirement on account of disability and at least once in each three-year period thereafter, the board may require any disability retirant who has not attained the normal retirement age for full age and service retirement benefits to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2) If a retirant refuses to submit to a medical examination in any period, his disability annuity may be suspended by the board until his withdrawal of the refusal.

(3) If the refusal continues for one (1) year, all his rights in and to a disability annuity may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically and mentally able and capable for a suitable job or position as an employee, his disability retirement shall terminate.

(5) If a disability retirant secures employment with an employer not considered a public employer, as defined in § 24-4-101, for the purpose of determining whether he is capable of returning to employment, then the disability retirant shall be allowed to earn compensation from the employment for a period of time not to exceed nine (9) months, during which period of time the retirant shall receive no monthly benefits from the system.

(6) If the retirant becomes unable to continue his employment before the nine-month period expires, then his disability retirement benefits from the system shall be reinstated and shall be effective the first day of the month after terminating his employment.

(7) Only one (1) trial work period is allowed any disability retirant, but the nine (9) months need not be consecutive.

(8) The trial work period does not prevent the consideration of any medical evidence which may demonstrate recovery before the ninth month of trial work.

(d)(1) If, at the end of the nine-month trial work period, the retirant wishes to continue his employment outside the system, then his disability retirement status shall terminate. For the purpose of determining his eligibility for any other benefit, he shall be considered to have terminated active membership as of the time of disability retirement but for a reason other than disability or death.

(2) If the former disability retirant again becomes an employee of a public employer, as defined in § 24-4-101, he shall immediately again become a member of the system, his credited service at the time of his

disability retirement shall be restored to his credit, and the amount of his accumulated contributions at the time of his disability retirement shall be restored to his credit in the members' deposit account.

(3) In no event shall he be given service credit for the period he was in receipt of the disability annuity.

(4) Should the former disability retirant again become totally and permanently disabled within twenty-four (24) months immediately following his return to membership or should he qualify for benefits by reason of age and service, the eighteen (18) months' credited service requirement specified in this section shall be waived.

(e)(1) As used in this section, "suitable job or position" means a job or position, the requirements of which can be physically or mentally performed, as determined by a physician, and for which the remuneration would be substantially gainful.

(2) In case of doubt as to what would be substantially gainful, the board shall have the final power to decide the question.

(3) Any former member who is or was approved for disability by the Social Security Administration but whose onset date does not meet the provision of subdivision (a)(1)(A) of this section that requires credited service for eighteen (18) of the twenty-four (24) months immediately preceding the disability, may be retired by the board upon written application to the board subject to the following:

(A) The onset date determined by the Social Security Administration is within twenty-four (24) months of the date of termination from covered employment;

(B) The former member furnishes a written statement to the board from a physician approved by the board that the former member was suffering at the time of termination from an illness or injury that subsequently led to the disability determination; and

(C) Retirement payments authorized under this section shall be effective on the first day of the next month following approval by the board of the written application and shall not be retroactive.

**History.** Acts 1957, No. 177, § 10; 1959, No. 42, § 10; 1973, No. 586, § 4; 1975, No. 907, § 8; 1977, No. 663, § 3; 1981, No. 859, § 4; 1985, No. 448, § 1; A.S.A. 1947, § 12-2510; Acts 1999, No. 325, § 8; 1999, No. 868, § 3.

**Amendments.** The 1999 amendment by No. 325 substituted "Except for members of the General Assembly who need at

least (10) years of credited service, any active member with five (5) or more years of actual service" for "Any active member with ten (10) or more years credited service" in (a)(1)(A); rewrote (a)(2); and made stylistic changes.

The 1999 amendment by No. 868 added (e)(3).

## **24-4-512. Eligibility for benefits — Prior service credit for county members.**

Any member of the County Division of the Arkansas Public Employees' Retirement System may, upon application and submission of proper proof to the Board of Trustees of the Arkansas Public Employees' Retirement System, receive credit for any service rendered a public



employer, as defined in § 24-4-101, prior to July 1, 1959, subject to the following conditions:

(1) That he was employed by a county participating public employer on July 1, 1957; and

(2) That he was employed by a state department participating public employer on July 1, 1959.

**History.** Acts 1957, No. 177, § 10; 1967, No. 175, § 3; A.S.A. 1947, § 12-2510.

#### **24-4-513. Minimum period of service for payment of benefits.**

No retirement benefits or disability benefits shall be due or payable to any member of the Arkansas Public Employees' Retirement System with less than eighteen (18) months of current service in the system.

**History.** Acts 1957, No. 177, § 14; A.S.A. 1947, § 12-2514.

#### **24-4-514. Credit for educational leave.**

(a) As used in this section, unless the context otherwise requires:

(1) "Educational leave" means a leave of absence from employment in a position covered by the Arkansas Public Employees' Retirement System to pursue a degree from an institution of higher education; and

(2) "System" means the Arkansas Public Employees' Retirement System.

(b) On or after July 1, 1987, any person who is a member of the system and who is not receiving benefits under the system on July 1, 1987, shall be entitled to purchase credited service in the system for a period not to exceed twelve (12) months, for actual time spent on educational leave, provided that the person:

(1) Has ten (10) or more years of creditable service with the system;

(2) Was paid a stipend during the period of educational leave;

(3) Had creditable service before and for at least two (2) years after the period of educational leave; and

(4) Pays or causes to be paid the sum of all employee contributions at the rate and on the compensation that would have been paid had he been a member of the system during that period of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date of the educational leave to the date the payment is received by the system.

**History.** Acts 1987, No. 33, §§ 1, 2; 1997, No. 299, § 16.

**Amendments.** The 1997 amendment rewrote (b)(4).

**24-4-515. [Repealed.]**

**Publisher's Notes.** This section, concerning credit for lost credited service due to physical injury or disabling disease,

was repealed by Acts 1997, No. 299, § 26. The section was derived from Acts 1995, No. 882, § 1.

**24-4-516. Credit for lost credited service due to work-related injury.**

(a) Any member of the Arkansas Public Employees' Retirement System who suffers from or who has suffered in the past from a work-related injury for which workers' compensation benefits were paid under the workers' compensation laws, and whose annuity from the system would otherwise be reduced due to the reduced salary and lost credited service, shall be entitled to obtain credited service for the actual time period of reduced salary and lost service credit by paying to the system all employee contributions at the rate and on the compensation that would have been paid had he been a member of the system during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service would have been rendered to the date the payment is received by the system.

(b) Provided, however, at the discretion of the employer, any employer under the system may elect to implement a policy to pay the employer's portion of any contributions that an employee would otherwise be responsible to pay under this section to receive the service credit.

**History.** Acts 1995, No. 962, § 1; 1997, No. 299, § 17.

**Amendments.** The 1997 amendment rewrote (a).

**24-4-517. State service under a federal grant.**

(a) As used in this section, "state service under a federal grant" means service rendered to any state agency while detailed or assigned to the agency under the terms of a federal grant agreement between an agency of the federal government and a state agency to perform services for the state agency and to be under the supervision of state administrators while being paid from federal grant funds awarded to the state agency and withheld from the federal grant moneys.

(b) From and after January 1, 1995, any person who is or was a member of the Arkansas Public Employees' Retirement System shall be entitled to purchase credited service in the system for a period not to exceed three (3) years for state service under a federal grant, but only if the person:

(1) Has at least ten (10) years of credited service with the system;

(2) Is not receiving or was not eligible to receive any retirement benefits paid by another retirement system for the period of time for

which he is claiming state service under a federal grant, except for social security benefits, if the person had left on deposit the contributions to the other system;

(3)(A) Pays, or causes to be paid, all employee contributions at the rate and on the compensation that would have been paid had he been a member of the system during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date payment is received by the system.

(B) The member may purchase all of the service or any portion thereof in multiples of one (1) year.

(C) The payment of funds shall be made in one (1) lump-sum; and

(4) Has otherwise complied with any and all other rules and regulations as the Board of Trustees of the Arkansas Public Employees' Retirement System may from time to time adopt under this section.

**History.** Acts 1995, No. 1264, § 1; by No. 239 repealed former (b)(3)(B). 1997, No. 239, § 1; 1997, No. 299, § 18. The 1997 amendment by No. 299 re-

**Amendments.** The 1997 amendment wrote (b)(3)(A).

### 24-4-518. Credit for service as sheriff.

A sheriff or former sheriff who became a member of the Arkansas Public Employees' Retirement System pursuant to § 24-4-101(12)(B), as amended by Acts 1995, No. 846, § 1, may purchase his or her time as an elected sheriff prior to July 28, 1995. At his or her option, the sheriff or former sheriff may receive credit for the service, subject to the following conditions:

(1) The person is a participating employee covered under the system at the time of the purchase or was a sheriff who became a member pursuant to § 24-4-101(12)(B), as amended by Acts 1995, No. 846, § 1;

(2) The person furnishes proof in a form required by the system of the service and compensation received; and

(3) The person pays or causes to be paid:

(A) All employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time;

(B) All employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time; and

(C) Regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the system. The person may purchase all of the service or any portion thereof in multiples of one (1) year; and

(4) The payment of funds shall be made in one (1) lump sum.



**History.** Acts 1999, No. 870, § 1.

**24-4-519. Current service credit — Nonuniformed employees.**

(a)(1)(A) A person who on December 31, 1998, was a nonuniformed employee of a municipality that participates in the Arkansas Public Employees' Retirement System or a former nonuniformed employee of a municipality that participates in the Arkansas Public Employees' Retirement System who was an active member of the system on December 31, 1998, may waive all rights to receive benefits under § 24-12-101 et seq. and apply for and receive current service credit in the Arkansas Public Employees' Retirement System for service rendered as a paid nonuniformed employee of the municipality.

(B) A former nonuniformed employee of a municipality or municipalities who had at least six (6) years of service as a nonuniformed employee, ten (10) years of service as a member of Arkansas Public Employees' Retirement System or a reciprocal system as defined by § 24-2-401, and is in a position of policy-making authority for a state agency may waive all rights to receive benefits for the service under any retirement plan and apply for and receive current service credit in the Arkansas Public Employees' Retirement System for service rendered as a paid nonuniformed employee of the municipality or municipalities.

(C) A former nonuniformed employee whose employment was with a municipality not participating in the Arkansas Public Employees' Retirement System, whose employment accrued before January 1, 1970, and who was an active member of the Arkansas Public Employees' Retirement System or a reciprocal system as defined by § 24-2-401 on December 31, 1998, may waive all rights to receive benefits under § 24-12-101 et seq., and apply for and receive current service credit in the Arkansas Public Employees' Retirement System for service rendered as a paid nonuniformed employee of the municipality.

(2) The waiver must be filed with the Arkansas Public Employees' Retirement System and with the governing body of the municipality.

(b) The current or former paid nonuniformed employee shall receive credit only if the employee or the municipality pays or causes to be paid to the Arkansas Public Employees' Retirement System Fund:

(1) All necessary employee contributions at the rate and on the compensation that would have been paid had the employee been a member during that time;

(2) All employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time; and

(3) Regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System.

- (c) The employer's contributions and employees' contributions, if applicable, shall be transmitted to the Arkansas Public Employees' Retirement System in the form and manner, together with the supporting data, as the Board of Trustees of the Arkansas Public Employees' Retirement System shall prescribe from time to time.
- (d) The governing body of the municipality may pay the employer contributions and employee contributions, if applicable, on behalf of the employee for services rendered.
- (e) "Paid nonuniformed employees" has the same meaning as provided by § 24-12-101.

**History.** Acts 1999, No. 706, § 1.

**24-4-520. Termination required for retirement.**

A member of the Arkansas Public Employees' Retirement System must terminate covered employment to be eligible for retirement. A member shall not be terminated from employment for retirement purposes if the person returns to a position that would otherwise be covered within thirty (30) days of the person's effective date of retirement. Persons failing to meet termination requirements shall forfeit their benefits until requirements are met.

**History.** Acts 1999, No. 1460, § 1.

**SUBCHAPTER 6 — BENEFITS**

SECTION.	SECTION.
24-4-601. Straight life annuity generally.	24-4-611. Minimum monthly benefit.
24-4-602. Payment of annuity balance upon death of retirant or member.	24-4-612. Increase in benefits.
24-4-603. Refund of contributions.	24-4-613. Benefits for contributory members.
24-4-604. [Repealed.]	24-4-614. Increase in monthly benefit amount — 1993.
24-4-605. Proration of public employer share of annuity reserve.	24-4-615. Maximum benefit limitation.
24-4-606. Annuity options.	24-4-616. Increase in monthly benefit amount — 1995.
24-4-607. Redetermination of benefits.	24-4-617. Increase in monthly benefit amount — 1997.
24-4-608. Payment of benefits upon death of member before retirement — Exception.	24-4-618. Increased benefits for persons retired before July 1, 1999.
24-4-609. Effective date of benefits.	24-4-619. Increased benefits for persons retired before June 1, 1999.
24-4-610. Increased benefits for persons retiring by June 1, 1985.	

**Effective Dates.** Acts 1957, No. 177, § 17: Mar. 7, 1957. Emergency clause provided: "It is hereby determined by the General Assembly that the establishment of a State Employees Retirement System is necessary in order to retain and recruit efficient and skilled state employees and that the immediate passage of this Act is necessary in order that the Board of Trustees herein created be appointed, organize and establish the necessary rules and forms to be followed upon the establishment of the retirement system herein created on July 1, 1957. Therefore, an

emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 42, § 16: Feb. 13, 1959. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of county employees in a retirement system is necessary in order to retain and recruit efficient and skilled county employees; that the coverage is best obtained by including the county employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that it is necessary for the Board of Trustees of said Arkansas State Employees Retirement System to organize and establish necessary rules, regulations and forms to effectuate said coverage of county employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1961, No. 11, §§ 2, 3: retroactive to Jan. 1, 1961. Emergency clause provided: "It is hereby found and determined by the General Assembly that clarification of the State Employees Retirement Act is needed and because of the lack of clarification such act is now depriving certain members of retirement benefits and that only by the immediate passage of this Act can such situations be clarified. Therefore, an emergency is hereby declared to exist and this act being necessary for the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1961, No. 64, § 9: Feb. 8, 1961. Emergency clause provided: "It is hereby determined by the General Assembly that the coverage of municipal employees in a retirement system is necessary in order to retain and recruit efficient and skilled municipal employees; that the coverage is best obtained by permitting the inclusion of municipal employees in the membership of the Arkansas State Employees Retirement System, established by Act 177 of 1957, as amended; that the Board of Trustees of the Arkansas State Employees Retirement System shall establish neces-

sary rules, regulations and forms to effectuate said coverage of municipal employees. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 153, § 15: Mar. 9, 1965. Emergency clause provided: "This act shall take effect and be in force from the date of its approval."

Acts 1969, No. 632, § 7: May 27, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 185 of 1969 which provides for an increase in contributions to and benefits payable under the State Employees Retirement System to be effective on July 1, 1969 did not contain an emergency clause and therefore will not be effective until ninety (90) days after adjournment of the Regular Session; that due to the extension of the Regular Session as authorized in the Constitution, acts not having an emergency clause will not be effective until well after July 1; and that it is essential to the proper administration of the State Employees Retirement System that the increase in contributions to and benefits payable under the State Employees Retirement System take effect on July 1, 1969. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 586, § 11: Apr. 3, 1986. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this act clarify coverage, service, credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and, in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 666, § 14: Apr. 10, 1973. Emergency clause provided: "It is hereby



found and determined by the General Assembly that the provisions of this Act change the rate of contributions, change the value of service credits and establish new types of benefits under the Arkansas Public Employees Retirement System; and, in order to enable persons to receive proper benefits thereunder without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 907, § 22: Apr. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 663, § 8: Mar. 23, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 715, § 9: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Retirement laws need further clarification in order for their meaning to be

comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 859, § 19: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of Act 177 of 1957, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 637, § 4: Mar. 22, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law regarding death-in-service benefits has not provided for benefits in the case of otherwise eligible persons who are forced to leave the payroll of a participating employer solely due to illness or accident which results in death and that this Act is immediately necessary to correct this inequity. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 865, § 4: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Public Employees Retirement System laws need to be amended to provide an increase of up to ten percent (10%) for those members and beneficiaries who retired before July 1, 1982. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 552, § 3: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Public Employees Retirement System laws need to be amended to provide an increase of up to ten percent (10%) for those members and beneficiaries who retired before July 1, 1984. Therefore,

an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985."

Acts 1991, No. 223, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that benefits provided to members of the Arkansas Public Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to provide adequate benefits. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect July 1, 1991."

Acts 1991, No. 380, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System, the Arkansas State Police Retirement System and the Arkansas State Highway Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 432, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System and the Arkansas State Police Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 938, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the General As-

sembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System are inadequate, and an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 629, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that retirement benefits provided to members of the Arkansas Public Employees Retirement System are inadequate; that the benefits should be increased as soon as possible in order to provide adequate benefits, and that effective fiscal administration of the System will be aided by implementing those increases as the state's fiscal year begins. Therefore, in order to promote sound fiscal administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 630, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that retirement benefits payable to retirants and beneficiaries of the Arkansas Public Employees Retirement System are inadequate; that the retirant and beneficiary payments should be increased as soon as possible in order to relieve this inequity, and that effective fiscal administration of the System will be aided by implementing those increases at the same time as the state's fiscal year begins. Therefore, in order to promote sound fiscal administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 318, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkan-



sas that retirement benefits payable to current and future retirants and beneficiaries of the Arkansas Public Employees' Retirement System are inadequate; that the current and future retirant and beneficiary payments should be increased as soon as possible in order to relieve this inequity; and that effective fiscal administration of the System will be aided by implementing those increases at the same time as the State's fiscal year begins. Therefore, in order to promote sound fiscal administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 39, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that historically the Public Employees Retirement System has recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect on July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the

effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 496, § 9: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that retirement benefits payable to current and future retirants and beneficiaries of the Arkansas Public Employees Retirement System are inadequate; that the current and future retirant and beneficiary payments should be increased as soon as possible in order to relieve this inequity, and that the effective fiscal administration of the System will be aided by implementing those increases at the same time as the state's fiscal year begins. Therefore, in order to promote sound fiscal administration in State government, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1450, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain provisions of the law governing the Public Employees' Retirement System need to be amended concerning eligibility for death benefits and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

24-4-601. Straight life annuity generally.

Beginning July 1, 1999, any member who retires, as provided in §§ 24-4-507, 24-4-508, 24-4-510 — 24-4-512, shall receive a straight life annuity equal to two and seven hundredths percent (2.07%) of his average compensation multiplied by the number of years and fraction of a year of credited service with the Arkansas Public Employees' Retirement System.



**History.** Acts 1957, No. 177, § 11; 1959, No. 42, § 11; 1965, No. 153, §§ 11, 12; 1967, No. 108, § 3; 1969, No. 632, § 3; 1975, No. 907, § 9; 1979, No. 715, § 6; 1981, No. 859, § 6; A.S.A. 1947, § 12-2511; Acts 1991, No. 223, § 1; 1995, No. 629, § 1; 1997, No. 318, § 1; 1999, No. 496, § 2.

**A.C.R.C. Notes.** As enacted, the 1991 amendment in (a) began "Beginning July 1, 1991."

**Amendments.** The 1995 amendment

added "Beginning July 1, 1995" and substituted "one and nine hundred ninety-two thousandths percent (1.992%)" for "one and eight hundred seventy-two thousandths percent (1.872%)" in (a).

The 1997 amendment rewrote this section.

The 1999 amendment substituted "1999" for "1997", substituted "seven" for "five", substituted "2.07%" for "2.05%", and made stylistic changes.

## **24-4-602. Payment of annuity balance upon death of retirant or member.**

(a) In the event a retirant who is in receipt of a straight life annuity dies before he has received in straight life annuity payments an aggregate amount equal to his accumulated contributions standing to his credit in the members' deposit account at the time of his retirement, the difference between his accumulated contributions and the aggregate amount of straight life annuity payments received by him shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.

(b) If there is no designated person surviving the retirant, the difference, if any, shall be paid in accordance with the Arkansas laws of descent and distribution.

(c) The payments may be made directly to a curator or guardian, or to an administrator or an executor, authorized to receive the payments, wherever the representative may be, with or without the appointment of a representative in this state.

(d) In the event a member dies and does not leave a beneficiary entitled to an annuity payable from funds of the Arkansas Public Employees' Retirement System, his accumulated contributions standing to his credit in the members' deposit account as of the time of his death shall be paid pursuant to the provisions of this section.

**History.** Acts 1957, No. 177, § 11; 1959, No. 42, § 11; 1961, No. 11, § 1; 1961, No. 64, § 5; 1965, No. 153, §§ 11, 12; 1967, No. 108, §§ 3, 4; 1967, No. 175, § 2; 1969, No. 81, § 1; 1969, No. 381, § 1; 1969, No. 632, §§ 3, 4; 1973, No. 586, §§ 5, 6; 1975, No. 907, §§ 1, 2, 9; 1977, No. 109, § 1; 1977, No. 816, § 1; 1979, No. 387, § 1; 1979, No. 715, §§ 2, 6; 1981, No. 859, § 6; A.S.A. 1947, § 12-2511.

## **24-4-603. Refund of contributions.**

(a) In the event a former member has left the employ of a participating public employer and requests a refund of his accumulated contributions, he shall be paid the contributions upon his written application for a refund on a form to be supplied by the Arkansas Public Employees' Retirement System.

(b) The former member may receive interest on the contributions if he has had accumulated contributions standing to his credit in the members' deposit account for at least five (5) years between the date he became a member of the system and the date he requests the refund of contributions.

(c) The interest shall be paid at a rate and method to be determined by the Board of Trustees of the Arkansas Public Employees' Retirement System and shall be calculated on the balance in the members' deposit account on the last June 30 prior to the date he obtains his refund.

(d) If a former member has applied for a refund of contributions but returns to employment with a participating public employer prior to the date he receives his refunded contributions, his request shall be void and he must again terminate his employment to request a refund of contributions.

(e) Refunds of a member's contributions or accumulated contributions, as the case may be, may be made in equal installments according to such rules and regulations as the board may adopt from time to time.

**History.** Acts 1957, No. 177, § 11; 1959, No. 42, § 11; 1975, No. 907, § 1; A.S.A. 1947, § 12-2511.

#### **24-4-604. [Repealed.]**

**Publisher's Notes.** This section, concerning payment of prior service annuity purchased by member, was repealed by Acts 1997, No. 299, § 26. The section was derived from Acts 1975, No. 907, § 13; A.S.A. 1947, § 12-2511.11.

#### **24-4-605. Proration of public employer share of annuity reserve.**

In the event a member retires with credited service arising from his employment by the state, a county, and a municipality, the public employer share of his annuity reserve shall be prorated between the state division, county division, and municipal division in accordance with the portions of his credited service acquired under each division.

**History.** Acts 1957, No. 177, § 11; 1961, No. 64, § 5; A.S.A. 1947, § 12-2511.

#### **24-4-606. Annuity options.**

(a) Before the date the first payment of his annuity becomes due, but not thereafter, a member may elect to receive his annuity as a straight life annuity or he may elect to have his annuity reduced and nominate a beneficiary in accordance with the provisions of one (1) of the following options:

(1) **OPTION A60 — 60 MONTHS CERTAIN AND LIFE ANNUITY.**

(A) Under Option A60, the retirant shall be paid a reduced annuity for life with the provision that, if the retirant's death occurs before sixty (60) monthly payments have been made, the full reduced

annuity shall continue to be paid for the remainder of the sixty (60) months to such persons, and in such shares, as the retirant shall have designated in writing and filed with the plan. If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety-six percent (96%) of the straight life annuity;

(2) OPTION A120 — 120 MONTHS CERTAIN AND LIFE ANNUITY.

(A) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that, if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons, and in such shares, as the retirant shall have designated in writing and filed with the plan. If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety percent (90%) of the straight life annuity;

(3) OPTION B50 — 50 PERCENT SURVIVOR BENEFICIARY ANNUITY.

(A) Under Option B50, the retirant shall be paid a reduced annuity for life with the provision that, upon his death, one-half ( $\frac{1}{2}$ ) of the reduced annuity shall be continued throughout the future lifetime of, and paid to, such person as the retirant shall have designated in writing and filed with the plan before his annuity starting date. However, the person must be either his spouse for not less than one (1) year immediately preceding the first payment due date, or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-three percent (83%) if the retirant's age and his beneficiary's age are the same on the first payment due date, which shall be decreased by one-half percent (0.5%), for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half percent (0.5%), up to a maximum of ninety-five percent (95%), for each year that the beneficiary's age is more than the retirant's age;

(4) OPTION B75 — 75 PERCENT SURVIVOR BENEFICIARY ANNUITY.

(A) Under Option B75, the retirant shall be paid a reduced annuity for life with the provision that, upon his death, three-fourths ( $\frac{3}{4}$ ) of the reduced annuity shall be continued throughout the future lifetime of, and paid to, such person as the retirant shall have designated in writing and filed with the plan before his annuity starting date. However, the person must be either his spouse for not less than one (1) year immediately preceding the first payment due date, or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ )



support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be seventy-eight percent (78%) if the retirant's age and his beneficiary's age are the same on the first due date, which shall be decreased by three-fourths percent (0.75%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by three-fourths percent (0.75%), up to a maximum of ninety percent (90%), for each year that the beneficiary's age is more than the retirant's age.

(b)(1) A death of a spouse or divorce or other marriage dissolution or the death of a person forty (40) years of age or older who is the designated beneficiary under Option B50 or Option B75 shall cancel, at the written election of the retirant, Option B50 or Option B75 at retirement, providing continuing lifetime benefits to the designated person, and shall return the retirant to his straight life, Option A60, or Option A120 annuity, to be effective the month following receipt of his election by the Arkansas Public Employees' Retirement System.

(2)(A) A retirant who is receiving a straight life, Option A60, or Option A120 annuity and who marries after retirement or within the one (1) year immediately preceding retirement may elect to cancel his straight life, Option A60, or Option A120 annuity and may elect Option B50 or Option B75, providing continuing lifetime benefits to his spouse, but only if the election is on a form approved by the system and is received by the system not earlier than one (1) year after the date of the marriage and not later than eighteen (18) months after that date.

(B) The election shall be effective the first day of the month following the receipt of the notice.

(c) If a member fails to elect an option, his annuity shall be paid him as a straight life annuity.

(d)(1) The surviving spouse of a system member who retired prior to July 1, 1967, shall receive a monthly survivor's annuity equal to seventy-five percent (75%) of the retirant's monthly benefit at the time of death provided that the surviving spouse was married to the retirant on the date of retirement, the surviving spouse is unmarried, and the surviving spouse makes application to the system on or before June 30, 1995.

(2) The monthly survivor's annuity shall be effective the first day of the month following the month of application, and no annuity will be paid the surviving spouse for any period prior to the first of the month following the month of application.

(e) The surviving spouse of a member of the system who retired on or after February 1, 1991, and who elected a straight life annuity shall be entitled to receive a survivor's annuity equal to the amount that would have been received had the member elected Option B75, provided:

(1) The member dies within six (6) months of the effective date of retirement; and

(2) The surviving spouse makes application to the system within six (6) months of the date of the member's death or, if the member is

deceased prior to August 13, 1993, within six (6) months of August 13, 1993.

**History.** Acts 1957, No. 177, § 11; The 1993 amendment by No. 1200 1967, No. 108, § 4; 1979, No. 715, § 2; added the provision designated herein as A.S.A. 1947, § 12-2511; Acts 1993, No. 973, § 1; 1993, No. 1200, § 2. (e).

**Amendments.** The 1993 amendment by No. 973 added (d).

#### **24-4-607. Redetermination of benefits.**

(a) Each July 1 the Arkansas Public Employees' Retirement System shall redetermine the amount of each monthly benefit which has been payable by the system for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months.

(b) The redetermined amount shall be the amount of the benefit payable as of the immediately preceding July 1 increased by three percent (3%).

**History.** Acts 1973, No. 666, § 5; 1979, No. 715, § 1; A.S.A. 1947, § 12-2511.6; Acts 1987, No. 477, § 1; 1991, No. 432, § 2; 1997, No. 299, § 19; 1999, No. 39, § 2. rewrote former (a)(3); deleted former (b)(1); and redesignated former (b)(2) as former (b). The 1999 amendment rewrote this section.

**Amendments.** The 1997 amendment

#### **24-4-608. Payment of benefits upon death of member before retirement — Exception.**

(a) If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, the applicable benefits provided in this section shall be paid upon written application to the Board of Trustees of the Arkansas Public Employees' Retirement System.

(b)(1)(A) In the event that a member dies and is not being paid on that date by his employer due solely to illness incurred before he left the payroll and the death occurs within one (1) year of the last payroll, or if the member's death occurs on or after July 1, 1998, and long-term disability provided by the employer was being paid at the time of death and the date of death is within eighteen (18) months of the last payroll, then the member shall be considered, for purposes of this section, to have died as an active member if all other necessary provisions of this section are met.

(B) For purposes of computing benefits provided by this section, the deceased member's compensation at the time of death shall be his compensation for the year immediately preceding the cessation of his pay.

(2) If an active member with five (5) or more years of credited service does not have credited service for the year immediately preceding death

due to illness which eventually leads to his death or due to his employer's removing the member from the payroll because of temporary economic conditions of the employer or weather conditions, the active member shall be considered, only for eligibility purposes of this section, to have credited service for the year preceding death, and benefits shall be paid according to the compensation earned during the year preceding death.

(c)(1) A member's surviving spouse who was married to the member at least the one (1) year immediately preceding his death shall receive an annuity computed in the same manner in all respects as if the member had:

(A) Retired the date of his death with entitlement to an annuity provided for in § 24-4-601;

(B) Elected the Option B75 survivor annuity provided for in § 24-4-606(a)(4); and

(C) Nominated his spouse as joint beneficiary.

(2)(A) If the member had satisfied the age and service requirements provided for in § 24-4-508 or had acquired twenty (20) years of credited service, the spouse annuity shall commence immediately and be payable for life. If the member had not satisfied the age and service requirement provided for in § 24-4-508 or had not acquired twenty (20) years of credited service, then the spouse annuity shall commence immediately and be payable until the earlier of his remarriage or death.

(B) A surviving spouse who is otherwise eligible but whose benefit has been deferred because the spouse did not meet the age requirements in effect before July 1, 1999, shall be eligible to commence a spouse annuity effective July 1, 1999. The spouse annuity shall not be retroactive.

(3) The spouse annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at the time of death.

(4) In any event, as long as the surviving spouse has in her care any of the deceased member's dependent children receiving a benefit provided for in this section, there shall be payable to her a spouse annuity as indicated in this section which shall not be less than ten percent (10%) of the deceased member's compensation at the time of death.

(d)(1)(A) A member's dependent child or dependent children shall each receive an annuity of the greater of either ten percent (10%) of the member's covered compensation at the time of death or an equal share of one hundred fifty dollars (\$150) monthly.

(B) Where there are three (3) or more dependent children, each dependent child shall receive an annuity of an equal share of the greater of either twenty-five percent (25%) of the covered compensation or one hundred fifty dollars (\$150) monthly.

(2)(A) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time



student at an accredited secondary school, college, or university, but in no event beyond his attainment of age twenty-three (23).

(ii) In addition, the age eighteen (18) maximum shall be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction, or by the Board of Trustees of the Arkansas Public Employees' Retirement System, for as long as the incompetency exists.

(3) Upon a child's ceasing to be a dependent child, his annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e) If, at the time of the member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of ten percent (10%) of the covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, but only if the board finds that the parent was dependent for at least fifty percent (50%) of his financial support upon the member.

(f)(1) If no annuity can become payable to a dependent child due to the death of the member and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and the spouse or dependent parents are also the designated beneficiaries of the member, then, in that event, the surviving spouse or dependent parents may elect to receive a refund of the member's accumulated contributions as provided in § 24-4-602(d) in lieu of any benefits which could become payable under this act.

(2) The option to choose a refund of the member's contributions shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this act and who could not exercise the option.

(3) Once the refund of the deceased member's accumulated contributions has been made to the surviving spouse or dependent parents under this section, the person shall have no future claim to monthly retirement benefits due to the death of the member.

(g)(1) In the event that all the annuities provided for in this section, payable on account of the death of a member, terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the members' deposit account at the time of his death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving at termination, the difference shall be paid to the member's estate.

(h) Annuities payable under the provisions of this section shall be effective the first day of the calendar month next following the date of the member's death or the first day of the month following the month in which the survivor becomes eligible for benefits as provided by law.

(i) The provisions of this section shall not be applicable in determining survivor benefits under the General Assembly Division or the State Constitutional Officers' Division of the Arkansas Public Employees' Retirement System if a benefit is provided to the surviving spouse by other laws applicable to the system.

**History.** Acts 1975, No. 907, §§ 15, 18; 1977, No. 663, § 4; 1979, No. 715, § 4; 1981, No. 859, § 10; 1983, No. 637, § 1; 1985, No. 938, § 11; A.S.A. 1947, §§ 12-2511.12, 12-2511.15; Acts 1993, No. 432, §§ 9, 10; 1997, No. 299, § 20; 1999, No. 325, § 9; 1999, No. 1450, § 2.

**Publisher's Notes.** In reference to the term "passage of this act," Acts 1977, No. 663 was signed by the Governor and became effective on March 23, 1977.

**Amendments.** The 1993 amendment, in (d)(1), substituted "an equal share of one hundred fifty dollars (\$150) monthly" for "fifty dollars (\$50.00) monthly" in the first sentence, and substituted "one hundred fifty dollars (\$150) monthly" for "one hundred twenty-five dollars (\$125)

monthly" in the second sentence; and substituted "an equal share of one hundred fifty dollars (\$150) monthly" for "fifty dollars (\$50.00) monthly" in (e).

The 1997 amendment deleted former (b)(3) and (b)(4).

The 1999 amendment by No. 325 added the present last sentence of (c)(2)(A); re-wrote (c)(2)(B); deleted (c)(2)(C); and made stylistic changes.

The 1999 amendment by No. 1450 inserted "or if the member's ... of the last payroll, then" in (b)(1)(A); made minor punctuation changes; and made stylistic changes.

**Meaning of "this act".** Acts 1977, No. 663, codified as §§ 24-2-402, 24-4-202, 24-4-511, 24-4-608 and 24-4-609.

**24-4-609. Effective date of benefits.**

All monthly benefits payable to survivors of deceased members or retirants of the Arkansas Public Employees' Retirement System shall be effective the first day of the month following the month in which the member or retirant died or the first day of the month following the month in which the survivor becomes eligible for benefits as provided by law.

**History.** Acts 1977, No. 663, § 2; A.S.A. 1947, § 12-2511.17.

**24-4-610. Increased benefits for persons retiring by June 1, 1985.**

(a) On July 1, 1987, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System who retired June 1, 1985, or before, shall be increased as follows:

(1) Those retirants and beneficiaries who retired June 1, 1985, or before, shall receive five percent (5%) of the benefit amount payable June 1, 1986, for each full year from the date of retirement through June 1, 1987, with a maximum increase payable of twenty percent (20%) of the June 1, 1987, retirement benefit;

(2) The following schedule shall be used to determine the percent of increase due:

<u>Date of Retirement</u>	<u>Percent of Increase</u>
7-1-85 and after	0%
7-1-84 through 6-1-85	5%
7-1-83 through 6-1-84	10%
7-1-82 through 6-1-83	11%
7-1-81 through 6-1-82	12%
7-1-80 through 6-1-81	13%
7-1-79 through 6-1-80	14%
7-1-78 through 6-1-79	15%
7-1-77 through 6-1-78	16%
7-1-76 through 6-1-77	17%
7-1-75 through 6-1-76	18%
Before 7-1-75	20%

(b)(1) The increase in benefits provided in subsection (a) of this section shall be added to the monthly benefit after the annual postretirement increase based on the consumer price index has been applied.

(2) The increase provided in subsection (a) of this section shall be added to the base annuity of the member or beneficiary.

**History.** Acts 1983, No. 865, § 1; 1985, No. 552, § 1; A.S.A. 1947, § 12-2511.23; Acts 1987, No. 809, § 1.

#### **24-4-611. Minimum monthly benefit.**

All persons who are now vested or who hereafter vest under the Arkansas Public Employees' Retirement System or the Arkansas State Highway Employees' Retirement System shall be entitled to a minimum monthly benefit of one hundred fifty dollars (\$150).

**History.** Acts 1989, No. 547, § 1.

**A.C.R.C. Notes.** Acts 1989, No. 547, § 2, provided: "All persons who on the effective date of this Act receive benefits under the Public Employees Retirement System or the State Highway Employees Retirement System, and whose monthly benefits are less than one hundred fifty

dollars (\$150) per month, shall have their monthly benefits increased to one hundred and fifty dollars (\$150) per month effective with the first benefit payment payable after the effective date of this Act."

**Publisher's Notes.** Acts 1989, No. 547, § 1, is also codified as § 24-5-124.

#### **24-4-612. Increase in benefits.**

(a) On July 1, 1991, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System, who retired June 1, 1991, or before, shall be increased by four percent (4%) of the benefit payable on June 1, 1991.

(b) The increase in benefits provided in subsection (a) of this section shall be added to the monthly benefit after the annual postretirement increase based on the consumer price index has been applied, and the



increase in subsection (a) of this section shall be added to the base annuity of the retirant or beneficiary.

**History.** Acts 1991, No. 380, § 1.

#### **24-4-613. Benefits for contributory members.**

(a) All contributory members of the Arkansas Public Employees' Retirement System who are retired as of August 13, 1993, or who retire after August 13, 1993, shall receive benefits at least equal to the amount of benefits they would have received had they retired as noncontributory members of the system.

(b) The provisions of this section are retroactive to January 1, 1993.

**History.** Acts 1993, No. 722, §§ 1, 2.

#### **24-4-614. Increase in monthly benefit amount — 1993.**

(a) On July 1, 1993, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System who retired on June 1, 1993, or before, shall be increased by two and sixty-one hundredths percent (2.61%) of the benefit payable on June 1, 1993.

(b) The increase in benefits provided in subsection (a) of this section shall be added to the monthly benefit after application of the annual postretirement increase, which is based on the consumer price index.

**History.** Acts 1993, No. 938, § 1.

#### **24-4-615. Maximum benefit limitation.**

(a) Notwithstanding any other provision of this chapter, benefits paid under the provisions of this chapter shall not exceed the limitations of Section 415 of the Internal Revenue Code that are applicable to governmental retirement plans.

(b)(1) The Board of Trustees of the Arkansas Public Employees' Retirement System is hereby empowered and authorized to promulgate all necessary rules and regulations to implement the limitations of Section 415 of the Internal Revenue Code.

(2) The rules and regulations adopted by the board pursuant to this section shall be amended to reflect any changes in the content or application of Section 415 of the Internal Revenue Code enacted by the United States Congress or promulgated by the Internal Revenue Service.

**History.** Acts 1995, No. 738, § 1.

**U.S. Code.** Section 415 of the Internal

Revenue Code, referred to in this section, is codified as 26 U.S.C. § 415.

#### **24-4-616. Increase in monthly benefit amount — 1995.**

On July 1, 1995, the monthly benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System

who retired on June 1, 1995, or before, shall be increased by six and forty-five hundredths percent (6.45%) of the benefit payable on June 1, 1995.

**History.** Acts 1995, No. 630, § 1.

#### **24-4-617. Increase in monthly benefit amount — 1997.**

On July 1, 1997, the monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Public Employees' Retirement System who retired on or before June 1, 1997, shall be increased by three percent (3%) of the benefit payable on June 1, 1997.

**History.** Acts 1997, No. 318, § 3.

#### **24-4-618. Increased benefits for persons retired before July 1, 1999.**

On July 1, 1999, and thereafter, the monthly benefit payable to the retirants and the beneficiaries of retirants of the Arkansas Public Employees' Retirement System who retired before July 1, 1989, shall be increased by an amount equal to one percent (1%) of the benefit payable on June 1, 1999, for each year or portion of a year of retirement prior to July 1, 1989.

**History.** Acts 1999, No. 496, § 3.

#### **24-4-619. Increased benefits for persons retired before June 1, 1999.**

In addition to the monthly retirement benefit increase provided in § 24-4-618, each retirant and beneficiary of a retirant of the Arkansas Public Employees' Retirement System who retired on or before June 1, 1999, shall receive an increase in his or her monthly benefit of fifty dollars (\$50.00).

**History.** Acts 1999, No. 496, § 4.

### **SUBCHAPTER 7 — PROVISIONS APPLICABLE TO PARTICULAR EMPLOYEES**

#### **SECTION.**

- 24-4-701 — 24-4-703. [Repealed.]
- 24-4-704. Members of General Assembly — Eight years' service before 1967 plus credit for other service.
- 24-4-705. Members of General Assembly — Voluntary retirement.
- 24-4-706. Members of General Assembly — Retirement benefits generally.
- 24-4-707. Members of General Assembly — Presiding officers.

#### **SECTION.**

- 24-4-708, 24-4-709. [Repealed.]
- 24-4-710. Credited service for General Assembly members and state constitutional officers dying in office — Surviving spouse benefits.
- 24-4-711. [Repealed.]
- 24-4-712. Governor.
- 24-4-713. [Repealed.]
- 24-4-714. Elected state constitutional officers generally.
- 24-4-715 — 24-4-722. [Repealed.]

## SECTION.

- 24-4-723. Members joining at same time as employer — Current service credit.
- 24-4-724. Members joining after employer — Current service credit.
- 24-4-725. [Repealed.]
- 24-4-726. State penitentiary employees.
- 24-4-727. War Memorial Stadium Commission employees.
- 24-4-728. [Repealed.]
- 24-4-729. Conservation district employees.
- 24-4-730, 24-4-731. [Repealed.]
- 24-4-732. Certain employees of state agencies — Early retirement incentives.
- 24-4-733. Certain county employees — Early retirement incentives.
- 24-4-734 — 24-4-736. [Repealed.]
- 24-4-737. Certain city attorneys — Credited service.
- 24-4-738. [Repealed.]
- 24-4-739. Municipal employees.

## SECTION.

- 24-4-740. Transfer of the Director of the Administrative Office of the Courts to the Arkansas Public Employees' Retirement System.
- 24-4-741. Credit for service in a reciprocal system.
- 24-4-742. Credit for service with public facilities board, rural waterworks facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board.
- 24-4-743. Intergovernmental Juvenile Detention Council employees.
- 24-4-744. Elected county official.
- 24-4-745. General Assembly employees.
- 24-4-746. Authority to promulgate rules.
- 24-4-747. Erroneous membership of certain employees.

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**Effective Dates.** Acts 1961, No. 14, § 2: Jan. 30, 1961. Emergency clause provided: "The legislature having determined that the appointment of a law clerk for counties with population of 240,000 or litigation in the circuit courts of said counties an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage."

Acts 1963, No. 478, § 2: Mar. 19, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that all persons eligible to receive benefits under Act 202 of 1961 were not aware of said act, or did not apply for coverage under said act within sufficient time to qualify for benefits thereunder; that the time for applying for benefits under said act expired on January 1, 1962 and such persons are now barred from obtaining the benefits of said act; and, that only by the immediate passage of this act may additional time be granted for applying for the benefits of said act, thereby removing a gross injustice to those persons who are now barred from coverage under said act. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for

the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1963, No. 522, § 4: Mar. 19, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that in order to include and cover disabled former members of the General Assembly in the Arkansas State Employees Retirement System, who have become disabled prior to their sixty-fifth birthday, the immediate passage of this Act is necessary; now, therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1965 (2nd Ex. Sess.), No. 12, § 10: Nov. 6, 1965. Emergency clause provided: "It is hereby found and determined by the General Assembly that clarification of the potential retirement status of certain state employees is needed and because of the lack of such clarification many employees may be deprived of retirement benefits and that only by the immediate passage of this Act can such situation be



corrected. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1968 (1st Ex. Sess.), No. 66, §§ 2, 4: became law without Governor's signature, effective retroactive to Jan. 1, 1968. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present requirement that the law clerk of the circuit court be a licensed attorney renders it difficult if not almost impossible to employ a person to fill said position; that the present law prescribing qualifications for the law clerks of the Arkansas Supreme Court require only that the law clerks be licensed attorneys or graduates of approved law schools; that the qualifications of law clerks for circuit courts should be the same as but no greater than those for Supreme Court Clerks; and, that this Act is immediately necessary to revise the qualifications of circuit court law clerks to conform to the qualifications of Supreme Court law clerks and to make it possible to employ persons to fill the position of circuit court law clerk and thereby to further the administration of justice. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 14, § 3: Jan. 30, 1969. Emergency clause provided: "It has been found, and is hereby declared by the General Assembly that the Legislative Subdivision of the Arkansas State Employees Retirement System is approaching financial insolvency; and only by the immediate operation of this Act may these conditions be alleviated. Therefore, an emergency hereby is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in full effect from the date of its passage and approval."

Acts 1969, No. 125, § 8: Feb. 25, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that the employees of the War Memorial Stadium Commission have been ineligible for membership in the Retirement System and that such employees are employees of the State and that the

immediate passage of this Act is necessary to enable such employees to become members of the System and to pay such necessary contributions therefor. Now therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after the date of its passage and approval."

Acts 1970 (Ex. Sess.), No. 184, § 9: became law without Governor's signature, Mar. 28, 1970. Emergency clause provided: "It is hereby found and determined by the General Assembly that the employees of the Arkansas Real Estate Commission, or its successor, have been ineligible for membership in the Retirement System and that such employees are immediate passage of this Act is necessary to enable such employees to become members of the System and to pay such necessary contributions therefor and to establish the number of officials and employees and their rates of pay. Now, therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after the date of its passage and approval."

Acts 1971, No. 85, § 5: Feb. 12, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is presently no specific provision for survivor benefits for surviving spouses of members of the General Assembly who die during their service as a member of the General Assembly; that some members of the General Assembly have served many years and have contributed to the retirement system since its establishment, and that this act should be given immediate effect in order to provide survivor benefits for surviving spouses of members of the General Assembly who have served at least ten (10) years as a member of the General Assembly and whose surviving spouses are not presently entitled to any survivors benefits under the retirement system for members of the General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 103, § 8: Feb. 17, 1971.

Emergency clause provided: "It is hereby found and determined by the General Assembly that in order to provide for an orderly retirement for public employees in Arkansas and for the Board of Trustees of the Public Employees Retirement System to have ample time for the implementation of the provisions of this act, the General Assembly hereby determines that the immediate passage of this act is essential. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 271, § 3: Mar. 12, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of Act 103 of 1971 provides retirement benefits for members of the Arkansas General Assembly and the Constitutional Officers, but that certain members of the General Assembly who have served a portion of at least five (5) terms, or in excess of eight (8) years in the Arkansas General Assembly were not covered by the provisions of said Act, and that in order to remove this inequity, it is essential that legislation be enacted to cover such members of the General Assembly and that such legislation be given effect as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 305, § 7: Mar. 16, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 103 of 1971 provided benefits for retired members of the General Assembly and State Elected Constitutional Officers, but that clarification for eligibility of said benefits is essential for the proper administration of said Act, and to enable those persons who are eligible for benefits thereunder to obtain said benefits without undue delay. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 447, § 5: Mar. 23, 1973. Emergency clause provided: "It is hereby

found and determined by the General Assembly of the State of Arkansas that the Public Employees Retirement System Law does not currently make adequate provision for the retirement of Governors of the State of Arkansas, and that this Act is immediately necessary to correct this inequitable situation by providing adequate benefits for such persons, and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 556, § 4: Apr. 2, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that persons who have spent many years in the employment of privately owned, semi-public waterworks systems, and who continue as employees of the system when the same is subsequently acquired by a municipality and operated as a municipal system should be permitted to obtain prior service credit in the State Employees Retirement System Municipal Division for their services as an employee of the system prior to its becoming a municipal system and that this Act is immediately necessary to permit such employees to obtain such prior service credit. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 666, § 14: Apr. 10, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act change the rate of contributions, change the value of service credits and establish new types of benefits under the Arkansas Public Employees Retirement System; and, in order to enable persons to receive proper benefits thereunder without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 754, § 5: Apr. 16, 1973.



Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 103 of 1971 provided benefits for retired members of the General Assembly and State elected constitutional officers, and that Act 85 of 1971 provided benefits for the surviving spouse of a member of the General Assembly or a state elected constitutional officer, but that clarification of said benefits is essential for the proper administration of said acts, and to enable those persons who are eligible for benefits thereunder to obtain said benefits without undue delay. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 313, § 4: Mar. 4, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law relating to survivor benefits for the spouse of a deceased member of the General Assembly or a deceased State elected constitutional officer provides for only a portion of the benefits to which the deceased member would have been entitled; that the survivor benefits provided for such spouses under the present law are totally inadequate and should be increased immediately, and that this Act is designed to provide for such increase in survivor benefits and should be given effect at the earliest possible date. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 907, § 22: Apr. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that provisions of this Act clarify coverage, service credits, and eligibility for benefits under the Arkansas Public Employees Retirement System; and in order to enable those persons who are eligible for such coverage, service credits, or benefits thereunder to obtain such without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and

safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 234, § 7: Feb. 23, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 110 of 1967 specifically authorized full-time employees of drainage improvement districts in this State to elect to participate in the Public Employees Retirement System but that due to a restrictive interpretation of that Act, those employees who failed to make the election to participate in the System on or before July 1, 1967, were precluded from joining the System; that employees of many drainage improvement districts in the State were not made aware of the provisions of Act 110 of 1967 prior to July 1, 1967, and therefore did not have an opportunity to elect to participate in the Retirement System; that such employees are not now eligible for membership in any adequate public supported retirement system and that this Act should be given effect at the earliest possible date to enable such employees to participate in the Public Employees Retirement System if they so elect. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 934, § 3: Mar. 31, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that retired members of the Public Employees Retirement System are authorized to earn limited income from a public employer, within the limitations established by the Federal Social Security Act for eligibility to receive Social Security benefits, but that said authority does not apply to retired elected county officials who are prohibited from receiving any income from employment in any full-time or part-time position in a county elected constitutional office; that it is inequitable to deny retired county elected constitutional officers opportunities which are available to other members of the Public Employees Retirement System to earn limited income without jeopardizing their retirement benefits; and that the immediate passage of this Act is necessary to correct this situation. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate



preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 211, § 9: Feb. 23, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to the effective and efficient administration of justice in the Sixth Circuit-Chancery Circuit that this Act be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 715, § 9: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of the Public Retirement laws need further clarification in order for their meaning to be comprehensible to members of the systems and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 412, § 3: Mar. 11, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is unclear regarding the crediting of service in the Public Employees Retirement System for members of the General Assembly who die during a term of office; that it is necessary to the proper administration of the Public Employees Retirement System that the law relating to this matter be clarified at the earliest possible date and that this Act is designed to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 491, § 3: Mar. 16, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is unclear regarding the crediting of service in the Public Employees Retirement System for state constitutional officers and members of the General Assembly who die during a term of office; that it is necessary to the proper administration of the Public Em-

ployees Retirement System that the law relating to this matter be clarified at the earliest possible date and that this Act is designed to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 859, § 19: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that various provisions of Act 177 of 1957, as amended, need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 187, § 11: Mar. 12, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that a reduction in work force caused by budgetary constraints may be avoided by offering early retirement incentives; that to offer early retirement incentives and to avoid unnecessary layoffs this Act should take effect immediately upon its passage. Therefore, an emergency is declared and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 461, § 5: Mar. 30, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current retirement law defining employee is unclear; that such should be revised to specifically include prosecuting attorneys of judicial districts; that the purchase of service credit should be expanded for certain employees; that the immediate passage of this Act is necessary to preserve the public health, welfare, and safety. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 717, § 5: Apr. 7, 1987. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that a reduction in county work forces called for by budgetary constraints may be avoided by offering early retirement and to avoid unnecessary layoffs, this Act should take effect immediately upon its passage; and that the immediate passage of this Act is necessary to accomplish said purpose, thereby assuring members of the County Division of the Public Employees Retirement System a more equitable method of computing retirement benefits. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and welfare, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 808, § 3: Apr. 8, 1987. Emergency clause provided: "It has been found and determined by the General Assembly that certain inequities to state employees would result from the enactment of Act 187 of 1987; that this Act is necessary to correct such inequities. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 1004, § 3: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1206 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 944, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that the only unelected position covered under the Judicial Retirement System is the Director of the Administrative Office of the Courts, that this position should be covered under the Arkansas Public Employees' Retirement System, and that it is necessary for the proper

administration of justice in Arkansas to provide this transfer shall be effective on July 1, 1993. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 398, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the effectiveness of this act on July 1, 1995, is essential to the operation of the Arkansas Public Employees Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1292, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that employees of Rural Waterworks Facilities Boards created by Act 617 of 1995 should be entitled to participate in the Public Employees Retirement System at the beginning of the next fiscal year; and that unless this emergency clause is adopted this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 76, § 10: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the Intergovernmental Juvenile Detention Council of the Tenth Judicial District created by uncoded Act 899 of 1995 should be entitled to participate in the Public Employees Retirement System at the beginning of the next fiscal year; and that unless this emergency clause is adopted this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be effective from and after July 1, 1997."

Acts 1997, No. 299, § 28: July 1, 1997. Emergency clause provided: "It is hereby

found and determined by the Eighty-First General Assembly of the State of Arkansas that certain provisions of law governing the Public Employees' Retirement System need clarification, standardization, and repeal and that the effective administration of State government makes it necessary for these changes to begin at the start of the State's fiscal year. Therefore, in order to promote sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 325, § 17: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that certain provisions of the law governing the Public Employees Retirement System need to be amended concerning eligibility, death benefits, and disability benefits, and that the effective administration of state government makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

### **24-4-701 — 24-4-703. [Repealed.]**

**Publisher's Notes.** These sections, concerning service by members of the General Assembly before 1959, were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-701. Acts 1961, No. 202, §§ 1, 2; 1963, No. 478, § 1; 1967, No. 402, § 1;

1969, No. 14, § 1; 1969, No. 202, § 1; A.S.A. 1947, §§ 12-2510.2, 12-2510.3.

24-4-702. Acts 1973, No. 396, § 3; A.S.A. 1947, § 12-2510.7.

24-4-703. Acts 1963, No. 522, § 1; A.S.A. 1947, § 12-2510.9.

### **24-4-704. Members of General Assembly — Eight years' service before 1967 plus credit for other service.**

(a) Any person who has eight (8) years of credited service in the Arkansas Public Employees' Retirement System as a member of the General Assembly prior to 1967 and two (2) or more additional years of credited service in the system for service other than as a General Assembly member shall be eligible to voluntarily retire at sixty-five (65) years of age and to receive an annuity in the amount prescribed in the public employees' retirement system law for retired General Assembly members and shall be eligible to exercise any option available to General Assembly members under the system.

(b) The surviving spouse of such person shall be entitled to survivor benefits prescribed for the surviving spouse of a General Assembly member.

**History.** Acts 1975, No. 313, § 2; A.S.A. 1947, § 12-2510.10.

### **24-4-705. Members of General Assembly — Voluntary retirement.**

(a)(1) An active member of the General Assembly or any person who has served as a member of the General Assembly subsequent to January 1, 1957, or who has qualified for coverage under the Arkansas



Public Employees' Retirement System with respect to service rendered as a member of the General Assembly as authorized by law, or who is a member of the system as a General Assembly member, or who has credited service in the system as a General Assembly member of the system for service rendered as a member of the General Assembly may voluntarily retire upon his written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.

(2) The application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, that a person desires to retire or to receive an annuity for which he is qualified under the system, if, at the time of retirement or election to receive benefits, he satisfies at least one (1) of the following conditions:

(A) Attainment of age sixty (60) with ten (10) years of credited service for General Assembly service;

(B) Attainment of age fifty-five (55) with fourteen (14) years of credited service for General Assembly service;

(C) Attainment of age sixty (60) with six (6) years of credited service for General Assembly service and is seventy-five percent (75%) disabled because of federal military service;

(D) Attainment of age fifty-five (55) with six (6) or more years of credited service for General Assembly service, and six (6) years of credited service as an elected county official, and eight (8) years of credited service as a state or county employee; however, if he has fourteen (14) or more years of credited service as an elected county official, eight (8) years of service as a state or county employee shall not be required for eligibility; or

(E) Attainment of age fifty (50) with eighteen (18) years of credited service for General Assembly service.

(b) Upon his retirement, he shall receive an annuity as provided for retired General Assembly members of the system.

**History.** Acts 1971, No. 103, § 4; 1971, No. 305, § 1; 1973, No. 396, § 1; 1973, No. 665, § 1; A.S.A. 1947, § 12-2510.6.

#### **24-4-706. Members of General Assembly — Retirement benefits generally.**

(a) Upon a General Assembly member's retirement as provided by law, his straight life annuity shall be three thousand one hundred forty-four dollars (\$3,144) plus the applicable amount provided in § 24-4-610 payable in equal monthly installments.

(b) The provisions of this section shall apply to all former, present, or future members of the General Assembly, or their beneficiaries, who meet the age requirements as a member of the General Assembly as provided by this act or any other act establishing eligibility for credited service as a General Assembly member of the Arkansas Public Employees' Retirement System.

(c) As provided in § 24-4-701 [repealed], the Treasurer of State is authorized and directed to make annual transfers to prevent the deterioration of the financial solvency of the system with respect to benefits provided General Assembly members and to retirants and beneficiaries of the General Assembly as provided in § 24-4-701 [repealed].

**History.** Acts 1971, No. 103, § 5; 1971, No. 305, § 2; 1973, No. 254, § 1; 1973, No. 666, § 1; 1975, No. 907, § 9; 1979, No. 715, § 5; 1981, No. 859, § 7; A.S.A. 1947, § 12-2511.1.

701, referred to in subsection (c), was repealed by Acts 1997, No. 299, § 26.

**Publisher's Notes.** Former § 24-4-

**Meaning of "this act".** Acts 1971, No. 103, codified as §§ 24-4-401, 24-4-402, 24-4-705, 24-4-706, 24-4-714.

**24-4-707. Members of General Assembly — Presiding officers.**

Any person who may have served as a presiding officer of either branch of the General Assembly for a period of not less than ten (10) years may be eligible, upon reaching age sixty-five (65), to receive an annuity as provided for in Acts 1959, No. 42, § 11A(c) [repealed], but only if the person became a member of the Arkansas Public Employees' Retirement System on July 1, 1957, has paid into the system all contributions required of him by law, is not a member of, eligible for membership in, or receiving benefits from some other state-supported retirement system other than social security, and is not at the time of retirement employed by a public employer in this state.

**History.** Acts 1961, No. 193, § 1; A.S.A. 1947, § 12-2510.1.

**24-4-708, 24-4-709. [Repealed.]**

**Publisher's Notes.** These sections, concerning members of house of representatives — four terms of service plus portion of another term and six terms of service before 1957, were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-708. Acts 1971, No. 271, § 1; A.S.A. 1947, § 12-2510.5.  
 24-4-709. Acts 1973, No. 397, § 1; A.S.A. 1947, § 12-2510.8.

**24-4-710. Credited service for General Assembly members and state constitutional officers dying in office — Surviving spouse benefits.**

- (a) Any member of the General Assembly or a state constitutional officer who dies before completing a term of office to which the person was elected shall continue to accrue credited service in the Arkansas Public Employees' Retirement System during the remainder of the term for which the person was elected.
- (b) The surviving spouse of a member or former member of the General Assembly or of a state constitutional officer or former state constitutional officer who, by virtue of the provisions of this section or

any other law, has five (5) years or more of credited service in any capacity in the system, except for members of the General Assembly who must have had ten (10) or more years of credited service if they only have service as a member of the General Assembly, shall be entitled upon reaching the required age to a surviving spouse benefit in the amount prescribed by law under the division of the system in which the deceased member was receiving benefits or would have been entitled under this section to receive benefits if the member had lived to retirement age.

(c) Nothing contained in this section is intended to, nor shall anything in this section be construed to, permit any member or former member of the General Assembly or any constitutional officer or former constitutional officer or any spouse of such member or officer to earn credited service in any retirement system after the expiration of the term of office to which the member was elected.

**History.** Acts 1981, No. 412, § 1; 1981, No. 491, § 1; A.S.A. 1947, § 12-2580; Acts 1999, No. 627, § 3.

**Amendments.** The 1999 amendment, in (b), substituted “has five (5) years” for “has ten (10) years” and inserted “except

for members of the General Assembly who must have had ten (10) or more years of credited service if they only have service as a member of the General Assembly”; and made minor punctuation changes.

## 24-4-711. [Repealed.]

**Publisher’s Notes.** This section, concerning survivor benefits for spouses of General Assembly members and state constitutional officers dying in office, was repealed by Acts 1997, No. 299, § 26. The

section was derived from Acts 1971, No. 85, §§ 1, 2; 1971, No. 305, § 4; 1973, No. 396, § 2; 1973, No. 754, § 2; 1975, No. 313, § 1; A.S.A. 1947, §§ 12-2510.12, 12-2510.13; Acts 1991, No. 463, §§ 2, 3.

## 24-4-712. Governor.

(a)(1) Any person who serves two (2) full two-year terms as Governor or who substantially serves two (2) terms as Governor with the exception of completing a portion or all of the last month of the second term by reason of vacating the office solely for the purpose of taking another office to which the person is elected and who accumulates not less than three (3) years and eleven (11) months of credited service under the Arkansas Public Employees’ Retirement System may retire upon reaching fifty-five (55) years of age under the provisions of the system with an annuity equal to eighteen percent (18%) of the biennial salary prescribed for the Governor.

(2) Any person who serves as Governor for three (3) full two-year terms and who accumulates not less than six (6) years of credited service as a member of the system may retire upon reaching fifty-five (55) years of age, under the provisions of the system with an annuity equal to twenty-four percent (24%) of the biennial salary prescribed for the Governor.

(3) Any person who serves as Governor for four (4) or more two-year terms and accumulates not less than eight (8) years of credited service



as a member of the system may retire, upon reaching fifty-five (55) years of age, under the provisions of the system with an annuity equal to thirty percent (30%) of the biennial salary prescribed for the Governor.

(b)(1) Any person who served as Governor prior to July 1, 1957, may, for the purpose of obtaining benefits under this section, purchase service credit in the system for the period of years which the person served as Governor by paying into the system an amount equal to five percent (5%) of his salary received as Governor during his service, plus an equal amount as the employer contribution to the system, plus interest at the rate of three percent (3%) per annum.

(2) Any person who served as Governor after July 1, 1957, but who has withdrawn his contributions to the system may, for purposes of obtaining benefits under the provisions of this section, repay to the system the amount so withdrawn with interest thereon at the rate of three percent (3%) from the date withdrawn to the date of repayment.

(3) The purchase of service credit or repayment of withdrawn contributions under this subsection must have been made on or before July 1, 1976.

(c) If the contributions made by the Governor members, together with the employer contributions made in behalf of the members, are insufficient to finance benefits payable to Governor members as prescribed in this section, then, in that event, the Board of Trustees of the Arkansas Public Employees' Retirement System shall annually certify to the Chief Fiscal Officer of the State the additional amounts required to pay the benefits of the members. The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Constitutional Officers Fund and the State Central Services Fund to the system to be used for paying the benefits.

(d) The benefits received by any member under the provisions of this section shall be in lieu of any benefits to which the individual may be entitled under other provisions of the system.

**History.** Acts 1973, No. 447, §§ 1-3; 1975, No. 286, § 1; A.S.A. 1947, §§ 12-319 — 12-321.

### 24-4-713. [Repealed.]

**Publisher's Notes.** This section, concerning the Secretary to Lieutenant Governor, was repealed by Acts 1997, No. 299,

§ 26. The section was derived from Acts 1973, No. 580, §§ 1, 2.

### 24-4-714. Elected state constitutional officers generally.

(a)(1)(A) Any elected state constitutional officer who as a member of the Arkansas Public Employees' Retirement System accumulates not less than ten (10) years of credited service as an elected state constitutional officer member of the system may voluntarily retire upon attaining age sixty (60) and receive an annuity provided in this

section upon his written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.

(B) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he desires to be retired.

(2)(A) Any elected state constitutional officer who as a member of the system accumulates not less than fourteen (14) years of credited service as an elected state constitutional officer and is a member of the system may voluntarily retire upon attaining age fifty-five (55) and receive an annuity provided in this section upon his written application filed with the board.

(B) The application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he desires to be retired.

(b) The benefits of an elected state constitutional officer shall be not less than sixty-five percent (65%) of the biennial salary, but if the salaries of elected state constitutional officers are altered, benefits provided in this section shall be computed and determined on the basis of salaries in effect for such officers on January 1, 1976.

(c)(1) If the contribution of the elected state constitutional officer member and the employer contributions are insufficient to pay the benefits of the elected state constitutional officer members, then, in that event, the board shall annually certify to the Chief Fiscal Officer of the State the amount sufficient to pay the deficit, based upon an actuarial determination of the additional amounts required to pay benefits of elected state constitutional officer members.

(2) The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Constitutional Officers Fund and the State Central Services Fund to the system.

(d) As used in this section, "elected state constitutional officer" means the Lieutenant Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, and Commissioner of State Lands.

(e) Nothing in this section shall prohibit the Lieutenant Governor from exercising any option provided by law to participate in benefits provided members of the General Assembly. In the event an elected state constitutional officer does not qualify for benefits provided elected state constitutional officers under the provisions of this section, the officer shall be entitled to benefits provided to other members of the system for which he is qualified, in terms of age and service, as provided by law.

**History.** Acts 1971, No. 103, § 6; 1971, No. 305, § 3; 1973, No. 754, § 1; 1975 (Extended Sess., 1976), No. 1206, § 1; A.S.A. 1947, § 12-2511.2; reen. Acts 1987, No. 1004, § 1.

**A.C.R.C.** This section was reenacted by Acts 1987, No. 1004, § 1. Acts 1987,

No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal any other 1987 legislation and that such other legislation would be controlling in the event of conflict.

**24-4-715 — 24-4-722. [Repealed.]**

**Publisher's Notes.** These sections, concerning prior service credit for county constitutional officers, elected county clerks, General Assembly employees, certain employees of House of Representatives, employees of state boards, commissions, etc., superintendents of state eleemosynary institutions, and certain employees of department of health, were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-715. Acts 1977, No. 721, § 3; 1979, No. 533, §§ 1, 2; A.S.A. 1947, § 12-2511.19; Acts 1987, No. 43, § 1.

24-4-716. Acts 1977, No. 934, § 1; A.S.A. 1947, § 12-2511.18.

24-4-717. Acts 1969, No. 200, § 1; 1985, No. 938, § 6; A.S.A. 1947, § 12-2510.4.

24-4-718. Acts 1965, No. 109, §§ 1, 2; A.S.A. 1947, §§ 12-2522.2, 12-2522.3.

24-4-719. Acts 1985, No. 19, § 1; A.S.A. 1947, § 12-2584.

24-4-720. Acts 1973, No. 187, § 1; A.S.A. 1947, § 12-2549.2.

24-4-721. Acts 1963, No. 96, § 1; A.S.A. 1947, § 12-2522.1.

24-4-722. Acts 1983, No. 915, §§ 1, 2; A.S.A. 1947, §§ 12-2583, 12-2583.1.

**24-4-723. Members joining at same time as employer — Current service credit.**

(a)(1) Any member of the Arkansas Public Employees' Retirement System who became, or becomes, a member on the date his employer became, or becomes, a public employer in the system shall receive current service credit for employment with a public employer in the system but only if the employment occurred during the period from July 1, 1957, to the date the public employer entered the system in the case of state, county, or municipal employees or during the period from October 1, 1957, to October 1, 1965, in the case of nonteaching public school employees, and if the member pays, or causes to be paid, all employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

(2) The member shall receive credit for employment with the University of Arkansas system if the employee was not eligible for coverage or did not participate in a retirement plan authorized by the University of Arkansas system and by the laws of the State of Arkansas during that service.

(3) The member may pay for all his current service credit or a portion thereof consisting of multiples of one (1) year.

(b)(1) Any member of the system who became, or becomes, a member on the date his employer became, or becomes, a public employer in the system and who did not, or does not, qualify for free prior service credit shall receive current service credit for employment with a public employer in the system or with the University of Arkansas system if the employee was not eligible for coverage or did not participate in a



retirement plan authorized by the University of Arkansas and by the laws of the State of Arkansas. He shall receive credit only if he has at least five (5) years of current service credit since becoming a member of the system, and he pays, or causes to be paid, all employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

(2) The payment shall be made in a lump sum.

(3) The member may pay for all his prior and interim current service or a portion thereof consisting of multiples of one (1) year.

**History.** Acts 1973, No. 187, §§ 2, 3; 1975, No. 907, §§ 3, 4; 1985, No. 938, §§ 14, 15; A.S.A. 1947, §§ 12-2549.3, 12-2549.4; Acts 1987, No. 327, §§ 1, 2; 1987, No. 461, § 2; 1997, No. 299, § 21.

**Publisher's Notes.** Acts 1987, No. 461,

§ 3, provided that this act shall be retroactive to June 30, 1957.

**Amendments.** The 1997 amendment rewrote (a)(1) and (b)(1); and deleted former (b)(2) and redesignated the remaining subdivisions accordingly.

#### **24-4-724. Members joining after employer — Current service credit.**

(a)(1)(A) Any member of the Arkansas Public Employees' Retirement System who became, or becomes, a member after the date that his employer became, or becomes, a public employer in the system shall receive current service for employment with a public employer in the system, with the University of Arkansas system, or with a municipality in the State of Arkansas if the employee was not eligible for coverage or does not participate in or is not eligible to receive a benefit from a retirement plan authorized by the University of Arkansas or a municipality in the State of Arkansas and by the laws of the State of Arkansas during employment.

(B) He shall receive credit only if he has at least five (5) years of current service credit since becoming a member of the system and he pays, or causes to be paid, all employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

(2) As used in this subsection, employment by a municipality in the State of Arkansas shall include the mayor, city attorney, city treasurer,

city clerk, clerk-treasurer, municipal judge, municipal court clerk, and any other city employee.

(b) The compensation to be used in computing the payments shall be the compensation on which contributions would have been made had the person been a member of the system during the time for which current service credit is purchased.

(c) The payment shall be made in a lump sum.

(d) The member may pay for all his prior and interim current service or a portion thereof consisting of multiples of one (1) year.

**History.** Acts 1973, No. 187, § 4; 1975, No. 907, § 5; 1985, No. 938, § 16; A.S.A. 1947, § 12-2549.5; Acts 1987, No. 327, § 3; 1993, No. 432, § 11; 1997, No. 299, § 22.

**Amendments.** The 1993 amendment, in (a)(1), inserted "or with a municipality in the State of Arkansas" following "University of Arkansas system," substituted

"does" for "did" following "eligible for coverage or," inserted "or is not eligible to receive a benefit from" following "participate in," inserted "or a municipality in the State of Arkansas" following "University of Arkansas," and made a minor punctuation change; and added (a)(2).

The 1997 amendment rewrote (a)(1).

## 24-4-725. [Repealed.]

**Publisher's Notes.** This section, concerning drainage improvement district employees, was repealed by Acts 1997, No.

299, § 26. The section was derived from Acts 1977, No. 234, §§ 1-5; A.S.A. 1947, §§ 12-2578 — 12-2578.4.

## 24-4-726. State penitentiary employees.

(a)(1) Any member of the former Arkansas State Penitentiary Employees' Retirement System, as created by Acts 1957, No. 64 [repealed], may, after November 6, 1965, upon application and submission of proper proof to the Board of Trustees of the Arkansas Public Employees' Retirement System, become members of the Arkansas Public Employees' Retirement System.

(2) That member may receive credit for all services rendered the state penitentiary upon paying, or causing to be paid, on or before November 6, 1966, into the members' deposit account, the contributions he would have paid, together with three percent (3%) compound interest, had he been a member of the Arkansas Public Employees' Retirement System during his period of employment with the state penitentiary.

(b) Upon certification from the Executive Director of the Arkansas Public Employees' Retirement System, the Treasurer of State shall transfer from the Department of Correction Inmate Care and Custody Fund Account of the State General Government Fund to the Arkansas Public Employees' Retirement System Fund an amount equal to the contributions made by the state penitentiary employees. That amount shall be credited to the Employer Contribution Fund of the system.

(c) Upon becoming a member of the Arkansas Public Employees' Retirement System, the member shall be entitled to the same rights and privileges as other members of the system.

(d) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to make such rules and regulations as, in its opinion, will effect an orderly transfer of membership and service credits as provided in this section.

(e) All persons in receipt of a straight life annuity from the former Arkansas State Penitentiary Employees' Retirement System shall be transferred to the retirement rolls of the Arkansas Public Employees' Retirement System on January 1, 1970, and their monthly benefits shall be continued for the remainder of their natural lives.

(f) On January 1 of each year, the Executive Director of the Arkansas Public Employees' Retirement System shall determine the amount necessary for the purpose of providing funds to assure the payment of such benefits. The Treasurer of State shall transfer from the Department of Correction Inmate Care and Custody Fund Account of the State General Government Fund to the Arkansas Public Employees' Retirement System Fund that amount, as certified by the executive director.

**History.** Acts 1965 (2nd Ex. Sess.), No. 12, §§ 1-3, 5, 7, 8; A.S.A. 1947, §§ 12-2555 — 12-2557, 12-2559, 12-2561, 12-2562.

**A.C.R.C. Notes.** The state penitentiary is under the custody, control and management of the Department of Correction pursuant to § 12-27-101 et seq.

**Publisher's Notes.** Acts 1965 (2nd Ex. Sess.), No. 12, § 4, provided that the state penitentiary would become a public em-

ployer within the meaning of § 24-4-101 and would be subject to all the provisions governing the Arkansas Public Employees' Retirement System.

Acts 1965 (2nd Ex. Sess.), No. 12, § 6, abolished the Arkansas State Penitentiary Employees' Retirement System and provided for the transfer of its assets to the Arkansas Public Employees' Retirement System.

#### **24-4-727. War Memorial Stadium Commission employees.**

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to include within the membership of the Arkansas Public Employees' Retirement System, as created by §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, all employees of the War Memorial Stadium Commission who are not members of, or eligible for membership in, some other state-supported retirement system other than social security.

(b)(1) The effective date of membership of the employees in the retirement system shall be July 1, 1969. All the employees enrolled in the system shall be subject to the rights, privileges, and limitations prescribed in §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606.

(2) Every such employee shall become a member of the system as a condition of continuing or obtaining employment with the commission.

(c) Any employee included within the membership of the retirement system pursuant to this section shall be given credit for service rendered prior to July 1, 1957, as an employee of a public employer, as



defined in § 24-4-101, or as an employee of the commission, if the employee was so employed on July 1, 1957, and on July 1, 1969.

(d)(1)(A) Any employee included within the membership of the retirement system by this section who was an employee of the commission on July 1, 1969, may apply for and receive current service credit for service rendered the commission from July 1, 1957, to July 1, 1969.

(B) The employee shall receive credit only if the employee pays, or causes to be paid, to the Arkansas Public Employees' Retirement System Fund all necessary contributions, at the rate of four percent (4%) for the employee and four percent (4%) for the employer from July 1, 1957, to July 1, 1967, and at the rate of four percent (4%) for the employee and five percent (5%) for the employer from July 1, 1967, to July 1, 1969, that would have been paid had the employee been a member of the system during that time.

(2) Interest at the rate of four percent (4%) per annum compounded annually from July 1, 1957, shall be paid on all contributions, which shall be paid in full on or before July 1, 1970.

(e) The commission shall pay into the fund such sums of money as are necessary to match the contributions of its employees in the same form and manner as other public employers and shall be subject to all the provisions of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, to the same extent as other public employers.

(f)(1) The payments received by the system under subsection (e) of this section shall be credited to the applicable employers' accumulation account.

(2) The employee payments shall be credited to the member's individual account in the members' deposit account.

**History.** Acts 1969, No. 125, §§ 1-6;  
A.S.A. 1947, §§ 12-2563 — 12-2568.

## **24-4-728. [Repealed.]**

**Publisher's Notes.** This section, concerning private waterworks systems employees, was repealed by Acts 1997, No. 299, § 26. The section was derived from Acts 1973, No. 556, § 1; A.S.A. 1947, § 12-2569.

## **24-4-729. Conservation district employees.**

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to include within the membership of the Arkansas Public Employees' Retirement System, as created by §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, as amended, all employees of conservation districts organized and operating under the provisions of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205,

24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606.

(b)(1)(A) The effective date of membership of the employees in the system shall be July 1, 1973.

(B) The employees enrolled in the system shall be subject to the rights, privileges, and limitations prescribed in §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606.

(2) Every such employee shall become a member of the system as a condition of continuing or obtaining employment with any conservation district.

(c) Any employee included within the membership of the system pursuant to this section shall be given credit for service rendered prior to July 1, 1957, as an employee of a public employer, as defined in § 24-4-101, or as an employee of a conservation district organized and operating under §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, if the employee was so employed on July 1, 1957, and on July 1, 1973.

(d)(1)(A) Any employee included within the membership of the system by this section who is an employee of a conservation district on July 1, 1973, may apply for and receive current service credit for service rendered as an employee of a public employer, as defined in § 24-4-101, or as an employee of a conservation district from July 1, 1957, to July 1, 1973.

(B) The employee shall receive credit only if the employee pays, or causes to be paid, to the Arkansas Public Employees' Retirement System Fund all necessary contributions, at the rate of four percent (4%) for the employee and four percent (4%) for the employer from July 1, 1957, to July 1, 1967, four percent (4%) for the employee and five percent (5%) for the employer from July 1, 1967, to July 1, 1969, and five percent (5%) for the employee and seven percent (7%) for the employer from July 1, 1969, to July 1, 1973, that would have been paid had the employee been a member of the system during that time.

(2) Interest at the rate of four percent (4%) per annum compounded annually from July 1, 1957, shall be paid on all contributions, which shall be paid in full on or before July 1, 1974.

(e) Each conservation district shall pay into the fund such sums of money as are necessary to match the contributions of its employees in the same form and manner as other public employers and shall be subject to all the provisions of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606, to the same extent as other public employers.

**History.** Acts 1973, No. 666, §§ 7-11; A.S.A. 1947, §§ 12-2575 — 12-2575.4.

### **24-4-730, 24-4-731. [Repealed.]**

**Publisher's Notes.** These sections, concerning Arkansas Real Estate Commission employees and law clerks, were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-730. Acts 1970 (Ex. Sess.), No. 184, §§ 2-7; A.S.A. 1947, §§ 71-1313 — 71-1318.

24-4-731. Acts 1961, No. 14, § 1; 1968 (1st Ex. Sess.), No. 66, § 1; 1979, No. 211, § 6; A.S.A. 1947, §§ 22-361, 22-417.15.

### **24-4-732. Certain employees of state agencies — Early retirement incentives.**

(a) In addition to the provisions of §§ 24-4-601 — 24-4-603, 24-4-605, and 24-4-606:

(1)(A) A state employee who is an active member of the Arkansas Public Employees' Retirement System on March 12, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the State of Arkansas immediately prior to his retirement date, may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(E) of this section, provided he retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the state is the employer.

(B)(i) In addition to his regular annuity, the system will pay the cost of the employee's health and basic life insurance which he is eligible to continue as a retirant with the State Employees Group Insurance Plan.

(ii) This payment is to be for the retirant's coverage only and is to be paid from the date of his retirement until the retirant's death.

(C) For the purpose of computing the state employee member's annuity, his highest annual salary will be substituted for his final average compensation.

(D) For the purpose of computing the state employee member's annuity, he will receive additional service credit equal to ten percent (10%) of his existing service credit.

(E)(i) A state employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System as defined in § 24-3-216(a)(3);

(2)(A) A state employee who is an active member of the system on March 12, 1987, and who has credit in the system for three (3) consecutive actual years of service with the State of Arkansas immediately prior to his retirement date and who has credit for not



less than ten (10) actual years of service and has attained age fifty-five (55), or has credit for not less than twenty-eight (28) actual years of service regardless of age may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(F) of this section, provided he retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the state is the employer.

(B)(i) The system will pay the cost of the state employee's health and basic life insurance which he is eligible to continue as a retirant with the State Employees Group Insurance Plan.

(ii) The payment is to be for the retirant's coverage only and is to be paid from the date of his retirement until the retirant has attained age sixty-five (65).

(C) For the purpose of computing the state employee member's annuity, his highest annual salary will be substituted for his final average compensation.

(D) If the state employee member is within two (2) years of his full annuity age and if he is eligible for an early reduced annuity as provided by § 24-4-510(c) or he is within two (2) years of having thirty (30) years' actual credited service, then his annuity will not be reduced because of early retirement.

(E) If the state employee member is within two (2) years of attaining the service requirement for a full annuity and has attained his full annuity age as provided by § 24-4-510(a) or is within two (2) years of having thirty (30) years' actual credited service, then his annuity will not be reduced because of early retirement.

(F)(i) A state employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System as defined in § 24-3-216(a)(3);

(3) Any employee of a state agency who is, on April 8, 1987, an active member of the Arkansas Teacher Retirement System and who is not a member of the Arkansas Public Employees' Retirement System but who would otherwise qualify to retire before January 1, 1988, under the requirements of the Early Retirement Incentive Law of 1987, may elect to become a member, and his credited service in the Arkansas Teacher Retirement System will be transferred to the Arkansas Public Employees' Retirement System, subject to the following conditions:

(A) The employee shall make the election on a form to be furnished by the Arkansas Public Employees' Retirement System, and the transfer shall become effective on the date of retirement;

(B) The Arkansas Teacher Retirement System shall certify to the Arkansas Public Employees' Retirement System a record of the employee's service credit in the Arkansas Teacher Retirement System; and

(C)(i) The employee shall retire under the noncontributory provisions of § 24-3-216, if, at the time of the transfer the member was a noncontributory member of the Arkansas Teacher Retirement System and shall be entitled to a refund of employee contributions made in the Arkansas Teacher Retirement System since January 1, 1978.

(ii) If, at the time of the transfer, the member was a contributory member of the Arkansas Teacher Retirement System, then the employee shall retire under the contributory provisions of subdivisions (a)(1) and (2) of this section;

(4)(A) The Arkansas Public Employees' Retirement System shall pay monthly benefits to any employee covered by this section who elects to transfer from the Arkansas Teacher Retirement System for purposes of retiring under this section.

(B) The Arkansas Public Employees' Retirement System shall certify monthly the amount of benefits paid hereunder and the Arkansas Teacher Retirement System shall immediately transfer the amount from their benefit account to the proper account designated by the Arkansas Public Employees' Retirement System; and

(5)(A) For those state employees who retire pursuant to the provisions of this section, the amount paid by the State Division of the Arkansas Public Employees' Retirement System as the cost of the employee's health and basic life insurance shall not exceed the amount of the employer's contribution for the coverage on the date of the employee's retirement and may be reduced at the time the employee qualifies under medicare or medicaid programs.

(B) Any future increase in the cost of this coverage shall be borne by the employee and not by the system from which the employee retired.

(b)(1) No position being vacated as a result of an employee retiring pursuant to the provisions of this section shall be filled without the written approval of the Governor or the Chief Fiscal Officer of the State.

(2) For those state-elected constitutional officers and members of the General Assembly who, as members of the State Division of the Arkansas Public Employees' Retirement System, would qualify by meeting all the requirements of this section to retire under the early retirement incentives in this section by January 1, 1988, the time period in which they may elect to retire under this section shall be extended to the last day of their current terms for which they are serving.

(3) Nothing in this section shall be construed to allow an elected official to continue to accumulate salary earnings in the system upon which his final annuity shall be based. An elected official opting to retire under subdivision (b)(2) of this section shall have all contributions to the system terminated on December 31, 1987.

(c) Any member of the Arkansas Public Employees' Retirement System who qualifies by meeting all the requirements of this section to retire under the early retirement incentives in this section by January 1, 1988, and who suffered from a work-related injury for which benefits

were paid under compensation laws after July 1, 1986, and before October 1, 1986, and whose final annuity would otherwise be reduced due to the reduced salary and lost credited service, shall be entitled to obtain credited service for the actual time period of reduced salary by paying to the system prior to December 31, 1987, the amount of money both he and his employer would have contributed on his behalf plus interest at the rate of six percent (6%) per annum calculated from the date the contributions would have been made until the date he makes payment to the system.

**History.** Acts 1987, No. 187, §§ 1, 8, 9; 1987, No. 808, § 1; 1987 (1st Ex. Sess.), No. 17, § 1.

**A.C.R.C. Notes.** Acts 1989, No. 446, § 1 provided: "(a) The Public Employees Retirement System Board of Trustees is authorized to approve the retirement of an eligible member after the effective date of this act under the provisions of Act 187 or Act 717 of 1987 if the board determines that all of the following conditions have been met:

"(1) As of January 1, 1988, the member was eligible to receive retirement benefits and retirement incentives authorized by Act 187 or Act 717 of 1987;

"(2) The eligible member thought his benefits would be less than he was actually entitled to due to an incorrect benefit estimate supplied him by the Public Employees Retirement System, provided that the correct benefit must represent an increase of at least 40% over the incorrect estimate;

"(3) Based on the incorrect benefit estimate supplied to him by the Public Employees Retirement System, the eligible member failed to apply for early retirement under the provisions of Act 187 or Act 717 of 1987;

"(4) The eligible member applies to the Public Employees Retirement System for retirement benefits and retirement incentives under Act 187 or Act 717 of 1987 prior to July 1, 1989.

"(b) The Public Employees Retirement System Board of Trustees is authorized by this act to approve an increase in benefits for an eligible member who retired under Act 187 or Act 717 of 1987 and who

mistakenly relied on an incorrect benefit estimate supplied to him if the board determines that all of the following conditions have been met:

"(1) The member thought his benefit would be more than he or she was actually entitled to due to an incorrect benefit estimate supplied to him by the Public Employees Retirement System, provided that the incorrect benefit estimate must represent an increase of at least fifteen percent (15%) over his or her actual benefit;

"(2) The member retired under Act 187 or Act 717 of 1987 and relied on the incorrect benefit estimate as the basis for his or her retirement decision;

"(3) The member applies to the Public Employees Retirement System for the increase in benefits prior to July 1, 1989."

Acts 1989, No. 446, § 2, provided: "Any eligible member retiring under the provisions of Act 187 or Act 717 of 1987 pursuant to this act will be entitled to the retirement benefits and retirement incentives they would have been eligible to receive had they retired effective January 1, 1988."

**Publisher's Notes.** Acts 1987 (1st Ex. Sess.), No. 17, § 3, provided that the intent of the act was to give fair and equal treatment to all employees and all elected officials under the Early Retirement Incentive Act.

The Early Retirement Incentive Law of 1987, referred to in this section, is codified as §§ 24-3-216, 24-4-732, 24-5-122 and 24-6-102.

**Cross References.** Teacher retirement system — benefits, § 24-7-701 et seq.

## CASE NOTES

### Constitutionality.

School superintendents not considered

state employees pursuant to § 24-4-101(18) were not denied equal protection



under the Fourteenth Amendment to the United States Constitution by their exclusion from the class of public employees authorized to take early retirement under this section, as there was a rational basis for classifications drawn by the General Assembly in that superintendents were on

payroll of local school districts and not state employees, and primary purpose of early retirement legislation was to facilitate a savings in state revenues by lowering number of employees on state payroll. *Haley v. Hall*, 733 F. Supp. 1275 (E.D. Ark. 1990).

### **24-4-733. Certain county employees — Early retirement incentives.**

(a) In addition to the provisions of §§ 24-4-601 — 24-4-603 and 24-4-605 — 24-4-607:

(1)(A) A county employee who is an active member of the County Division of the Arkansas Public Employees' Retirement System on April 7, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the county immediately prior to his retirement date may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(D) of this section, provided he retires during the period beginning with April 7, 1987, through January 1, 1988, inclusive. Provided further, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the county or any other county is the employer.

(B) For the purpose of computing the county employee member's annuity, his highest annual salary will be substituted for his final average compensation.

(C) For the purpose of computing the county employee member's annuity, he will receive additional service credit equal to ten percent (10%) of his existing service credit.

(D)(i) A county employee member may receive a retirement bonus which is a lump-sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System;

(2)(A) A county employee who is an active member of the county division of the system on April 7, 1987, and who has credit in the system for three (3) consecutive actual years of service with the county immediately prior to his retirement date and who has credit for not less than ten (10) actual years of service and has attained the age of fifty-five (55) or has credit for not less than twenty-eight (28) actual years of service regardless of age may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(E) of this section, provided he retires during the period beginning with April 7, 1987, through January 1, 1988, inclusive. Provided further, an employee who participates in this retirement incentive program is not eligible to accept further employment in which the county or any other county is the employer.

(B) For the purpose of computing the county employee member's annuity, his highest annual salary will be substituted for his final average compensation.

(C) If the county employee member is within two (2) years of his full annuity age and if he is eligible for an early reduced annuity as provided by § 24-4-510(c) or he is within two (2) years of having thirty (30) years' actual credited service, then his annuity will not be reduced because of early retirement.

(D) If the county employee member is within two (2) years of attaining the service requirement for a full annuity and has attained his full annuity age as provided by § 24-4-508(a) and (b) or is within two (2) years of having thirty (30) years' actual credited service, then his annuity will not be reduced because of early retirement.

(E)(i) A county employee member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the contingency reserve fund of the Arkansas Public Employees' Retirement System.

(b) No position being vacated as a result of a county employee's retiring pursuant to the provisions of this section shall be filled without the approval by resolution of the quorum court.

(c) For those elected county constitutional officers who, as members of the county division of the system, would qualify by meeting all the requirements in subsection (a) of this section to retire under the early retirement incentives in subsection (a) of this section by January 1, 1988, the time period in which they may elect to retire shall be extended to the last day of their current terms for which they are serving.

(d)(1) Nothing in this section shall be construed to allow an elected official to continue to accumulate salary earnings in the system upon which his final annuity shall be based.

(2) An elected official opting to retire under subsection (c) of this section shall have all contributions to the system terminated on December 31, 1987.

(e)(1) As used in this section, "contingency reserve fund" means that amount of the Arkansas Public Employees' Retirement System's assets at cost determined by the annual actuarial valuation to be in excess of the total system benefit liabilities.

(2) There shall be annual transfers between the employee's accumulation account and the contingency reserve fund as necessary to recognize the actuarially determined balance of that fund.

(f) Any elected official who qualifies for retirement incentives under this section shall forfeit all retirement benefits if he knowingly and willfully misstates the amount of his credited service to the system.

**History.** Acts 1987, No. 717, §§ 1, 3, 4; 1987 (1st Ex. Sess.), No. 17, § 2; 1991, No. 1141, § 1.

**A.C.R.C. Notes.** For provisions autho-

rizing the Board of Trustees of the Arkansas Public Employees' Retirement System to approve the retirement of an eligible member, see A.C.R.C. Notes, § 24-4-732.

As to eligible members retiring under the provisions of Acts 1987, No. 187 or Acts 1987, No. 717, see A.C.R.C. Notes, § 24-4-732.

**Publisher's Notes.** Acts 1987 (1st Ex. Sess.), No. 17, § 3, provided that the in-

tent of the act was to give fair and equal treatment to all employees and all elected officials under the Early Retirement Incentive Act.

Acts 1991, No. 1141, § 1, is also codified as § 24-3-217(f).

## **24-4-734 — 24-4-736. [Repealed.]**

**Publisher's Notes.** These sections, concerning elected county constitutional officers retiring after July 1, 1987 and prior service credit for secretaries, clerks of Senate and House of Representatives, certain members of House of Representa-

tives were repealed by Acts 1997, No. 299, § 26. They were derived from the following sources:

24-4-734. Acts 1987, No. 352, § 1.

24-4-735. Acts 1987, No. 385, §§ 1, 2.

24-4-736. Acts 1987, No. 461, §§ 2, 3.

## **24-4-737. Certain city attorneys — Credited service.**

(a) When the term of office of an elected city attorney is cut short due to the change in the form of city government and that person is employed to serve as the city attorney for the remainder of his term, he shall receive credited service under the Arkansas Public Employees' Retirement System for the remainder of his term, or portion thereof, that he is employed as the city attorney, to the same extent as if he were an elected city attorney instead of an employed city attorney.

(b) The provisions of this section shall be retroactive to January 1, 1986.

**History.** Acts 1987, No. 975, §§ 1, 3.

## **24-4-738. [Repealed.]**

**Publisher's Notes.** This section, concerning annuity for mayor, was repealed

by Acts 1997, No. 299, § 26. The section was derived from Acts 1989, No. 723, § 2.

## **24-4-739. Municipal employees.**

(a)(1) Any municipal employee or municipal official, including a municipal judge, municipal court clerk, mayor, city attorney, city treasurer, city clerk, clerk-treasurer, and deputy city clerk, who was erroneously enrolled in the Arkansas Public Employees' Retirement System because of eligibility for membership in another system on or before January 1, 1991, may elect to remain a member of the Arkansas Public Employees' Retirement System or receive service credit in a reciprocal retirement system subject to employer certification that the employee was not enrolled in a local plan at the time of his employment.

(2) Any employee as listed in subdivision (a)(1) of this section who, prior to this section, has been removed from membership in the Arkansas Public Employees' Retirement System because of eligibility for membership in another system established pursuant to state law or any member of a reciprocal retirement system may restore the refunded service and establish subsequent service by paying or causing to be paid



to the Arkansas Public Employees' Retirement System the refunded contributions and the legally required contributions for subsequent service.

(3) However, in no instance shall the same service time and related earnings be credited in more than one (1) system established pursuant to state law.

(b)(1) The employee or member shall make election in writing to the Arkansas Public Employees' Retirement System and the eligible system within sixty (60) calendar days after being notified by the Arkansas Public Employees' Retirement System of the erroneous enrollment.

(2) Failure to make an election within sixty (60) calendar days will result in the employee's or member's being removed from the Arkansas Public Employees' Retirement System.

(c)(1) Should the employee or the member elect to become a member of the eligible system, as provided in subsection (a) of this section, or should the employee or member be removed from the Arkansas Public Employees' Retirement System because of failure to elect, as provided in subsection (b) of this section, the Arkansas Public Employees' Retirement System will refund to the employer all contributions, from both employee and employer, that were paid on behalf of the employee or member in question.

(2) Upon receipt of the refunded contributions, the employer shall enroll and establish the proper service credit for the employee or member in the eligible system.

(d)(1) In the event a local plan is established as provided for by state law, any member of the Arkansas Public Employees' Retirement System who would otherwise be eligible for this local plan may elect to remain in the Arkansas Public Employees' Retirement System or become a member of the local plan.

(2) This election shall be made in writing to both plans within thirty (30) days of the establishment of the local plan.

(e)(1) Any current member of the Arkansas Public Employees' Retirement System who, prior to January 1, 1991, had employment with a participating municipal employer in which such employment was eligible for membership in a local plan may purchase such service in the Arkansas Public Employees' Retirement System, provided the employer certifies that the person was not a member of a local plan.

(2) The service will be credited only after such certification has been provided and the member has paid into the Arkansas Public Employees' Retirement System an amount equal to that which would have been paid had the service been reported at the time rendered plus six percent (6%) interest compounded annually from the date such service was rendered until the date of purchase.

**History.** Acts 1991, No. 221, §§ 1-3; 1993, No. 104, § 1; 1995, No. 1296, § 82.

**A.C.R.C. Notes.** The term "prior to this section" in (a)(2) appears as enacted.

**Amendments.** The 1993 amendment,

in (a)(1), inserted "or municipal official" near the beginning and inserted "or receive service credit in a reciprocal retirement system" near the end; inserted "or any member of a reciprocal retirement

system" in (a)(2); inserted "or member" near the beginning of (b); in (c), inserted "or the member" near the beginning, and inserted "or member" three times; and made a punctuation change in (e).

The 1995 amendment inserted "or member" in the second sentence of (b).

**24-4-740. Transfer of the Director of the Administrative Office of the Courts to the Arkansas Public Employees' Retirement System.**

(a) Effective July 1, 1993, the Director of the Administrative Office of the Courts shall cease to be a member of the Arkansas Judicial Retirement System. At that time, the Director of the Administrative Office of the Courts shall become a member of the Arkansas Public Employees' Retirement System.

(b)(1)(A) The retirement and survivors' benefit to be received by the director occupying the position on July 1, 1993, shall not be less than that which he would have received under the provisions of § 24-8-218, including any increases after retirement, had he or she remained in the Arkansas Judicial Retirement System.

(B) Provided, further, he or she shall meet the eligibility requirements of § 24-8-215 and § 24-8-218 in order to receive the retirement and survivors' benefits provided under § 24-8-218 and shall meet the requirements of § 24-8-217 in order to receive the disability benefits provided under § 24-8-218.

(2)(A) The State of Arkansas, as employer, shall contribute to the Arkansas Public Employees' Retirement System twelve percent (12%) of the salary amount of the director occupying the position on July 1, 1993.

(B) The director occupying the position on July 1, 1993, shall contribute six percent (6%) of his or her pay until such time as he or she is eligible for retirement under the provisions of § 24-8-215.

(C) Provided, further, all contributions made to the Arkansas Judicial Retirement System by the employer on behalf of the director occupying the position on July 1, 1993, and all contributions made by the director, shall be transferred to the Arkansas Public Employees' Retirement System.

(D) In the event the director ceases to be a member prior to qualifying for retirement benefits, he or she shall be entitled to a refund of all contributions paid into the system by the director.

(c) The retirement benefit to be received by any new person occupying the position of director after July 1, 1993, shall be based upon the regular annuity and benefit provisions for the Arkansas Public Employees' Retirement System. The contributions to be made by the employer shall be the same as those required for the State Division of the Arkansas Public Employees' Retirement System. The person occupying the position thereafter shall not make contributions to the system.

**24-4-741. Credit for service in a reciprocal system.**

Notwithstanding the provisions of § 24-3-206 regarding total credited service in reciprocal retirement systems, both service in the Arkansas Public Employees' Retirement System as a member of the Arkansas State Claims Commission and service in another reciprocal system during the same period of time may be counted as credited service to meet the service requirements for benefits from the Arkansas Public Employees' Retirement System and another reciprocal system, subject to the following:

(1) The provisions of § 24-3-301 may not be used to meet the minimum service requirements;

(2) The portion of service credit attributed under the provisions of this section shall not be used to determine a member's retirement eligibility or the member's normal retirement age under § 24-3-102;

(3) The benefit payable by a reciprocal system will be based on the credited service in that system and on the final average pay under that system; and

(4) If a member has less than five (5) actual years of service credited in a reciprocal system, then "final average pay" means the monthly average of pay to him during his total years of service in that system.

**History.** Acts 1993, No. 1229, § 1.

**24-4-742. Credit for service with public facilities board, rural waterworks facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board.**

(a) Any full-time employee of a public facilities board, rural waterworks facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board enrolled in the Arkansas Public Employees' Retirement System pursuant to this act who is a full-time employee of a participating public facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board in this state on the date his employer became, or becomes, a public employer in the system may apply for and receive current service credit for service rendered as a full-time employee of the public facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board.

(b) The employee shall receive credit only if the employee or employer pays, or causes to be paid, to the Arkansas Public Employees' Retirement System Fund all necessary employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid



had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

(c) The employer's contributions and employees' contributions, if applicable, shall be transmitted to the system in the form and manner, together with the supporting data, as the board shall prescribe from time to time.

(d) The governing body of any public facilities board, rural water-works facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board electing to include the full-time employees of the board within the membership of the system may pay the employer contributions and employee contributions, if applicable, on behalf of employees for services rendered.

**History.** Acts 1995, No. 398, § 5; 1995, No. 1292, § 5; 1997, No. 299, § 23.

**Amendments.** The 1997 amendment rewrote (b).

**Meaning of "this act".** Acts 1995, Nos. 398 and 1292, codified as §§ 24-4-101, 24-4-202, 24-4-742.

### **24-4-743. Intergovernmental Juvenile Detention Council employees.**

(a)(1) Any full-time employee of the Intergovernmental Juvenile Detention Council of the Tenth Judicial District enrolled in the Arkansas Public Employees' Retirement System pursuant to this section who is a full-time employee of the council on the date his employer becomes a public employer in the system, may apply for and receive current service credit for service rendered as a full-time employee of the council.

(2) The employee shall receive credit only if the employee or employer pays, or causes to be paid, to the Arkansas Public Employees' Retirement System Fund all necessary employer contributions and employee contributions, if applicable, that would have been paid had the employee been a member of the system during that time, plus interest thereon at the rate directed by the Board of Trustees of the Arkansas Public Employees' Retirement System.

(3) The employer's contributions and employees' contributions, if applicable, shall be transmitted to the system in the form and manner, together with the supporting data, as the board shall prescribe from time to time.

(b) The council electing to include the full-time employees of the board within the membership of the system may pay the employer contributions and employee contributions, if applicable, on behalf of employees for services rendered.

**History.** Acts 1997, No. 76, § 6.

**A.C.R.C.** References to "this chapter" in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516

— 24-4-603, 24-4-605 — 24-4-619, 24-4-704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 —

24-4-747 may not apply to this section which was enacted subsequently.

### **24-4-744. Elected county official.**

For the purpose of determining benefits under the Arkansas Public Employees' Retirement System, a member of the system who has service as an elected county official for a period during which the office was under the fee system, the salary of the member during that period shall be deemed to be the average salary for county officials in the same office in this state on July 1, 1997.

**History.** Acts 1997, No. 299, § 27.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and

24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

**Meaning of "this act".** Acts 1997, No. 299, codified as §§ 24-3-103, 24-3-104, 24-3-201, 24-3-205, 24-3-206, 24-3-209, 24-4-101, 24-4-201, 24-4-202, 24-4-209, 24-4-210, 24-4-301, 24-4-401, 24-4-402, 24-4-508, 24-4-514, 24-4-516, 24-4-517, 24-4-607, 24-4-608, 24-4-723, 24-4-724, 24-4-742.

### **24-4-745. General Assembly employees.**

(a) An employee of the General Assembly who has at least five (5) years' service in the Arkansas Public Employees' Retirement System and who served at least four hundred (400) days as a session employee of the General Assembly may apply for and receive current service credit in the system for service rendered as a session employee.

(b) The employee shall receive credit only if the employee or employer pays or causes to be paid to the Arkansas Public Employees' Retirement System Fund:

(1) All necessary employee contributions at the rate and on the compensation that would have been paid had he been a member during that time;

(2) All employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time; and

(3) Regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system.

(c) The employer's contributions and employees' contributions, if applicable, shall be transmitted to the system in the form and manner, together with the supporting data, as the Board of Trustees of the Arkansas Public Employees' Retirement System shall prescribe from time to time.

(d) The employer may pay the employer contributions and employee contributions, if applicable, on behalf of the employee for services rendered.

**History.** Acts 1999, No. 325, § 12.

#### **24-4-746. Authority to promulgate rules.**

The Board of Trustees of the Arkansas Public Employees' Retirement System shall have the authority to promulgate such rules and regulations as are necessary to provide for the participation of employers defined as rehabilitative services corporations under the provisions of § 4-34-101 and such local units of government as are provided for under the Arkansas Code. Provided, however, the board shall not admit or retain any employer whose participation in the Arkansas Public Employees' Retirement System would jeopardize the tax-qualified status of the plan under the Internal Revenue Code or that would subject the plan to additional federal requirements, or to any other consequence that the board would determine to be detrimental to the system.

**History.** Acts 1999, No. 865, § 2.

#### **24-4-747. Erroneous membership of certain employees.**

(a) A person who was erroneously included in the Arkansas Public Employees' Retirement System for at least two (2) years and whose disqualification from the Arkansas Public Employees' Retirement System was due to employment that caused the person to be a member of another state-supported or state-authorized retirement system may elect to restore service credit lost as a result of the erroneous dual coverage if:

(1) The person is a member of the Arkansas Public Employees' Retirement System at the time of applying to restore the lost credited service;

(2) The person applies to restore the lost service credit within two (2) years after the Arkansas Public Employees' Retirement System refunded contributions; and

(3) Any contributions and interest that were refunded by the Arkansas Public Employees' Retirement System are repaid, along with any interest accruing from the date of the refunding until the funds are actually repaid to the system.

(b) A person who elects to restore credited service under this section shall not be entitled to receive credited service in the other state-supported retirement system for the same period. The other system shall refund contributions paid for the period plus reasonable interest on the contributions at the rate determined by the board of trustees of the other system.

**History.** Acts 1999, No. 1010, § 1.

**Publisher's Notes.** Acts 1999, No. 1010, § 2, provided: "This act shall apply

retroactively to allow the restoration of service credit lost prior to July 30, 1999."



## SUBCHAPTER 8 — DEFERRED RETIREMENT OPTION PLAN

### SECTION.

24-4-801. Participation.

24-4-802. Eligibility — Effect of election.

24-4-803. Amount of benefit — Amount of contribution — Interest.

### SECTION.

24-4-804. Cessation of participation.

24-4-805. Death or disability.

24-4-806. Limitation on benefit enhancement.

**Effective Dates.** Acts 1997, No. 1052, § 10: Apr. 2, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the retention of experienced public employees for state government and for county and municipal governments are beneficial to the administration of government in Arkansas and with the increased longevity of people in general, public employees are capable of working longer and qualified and experienced employees are reaching retirement eligibility earlier in their careers. Immediate passage of the act is essential to the efficient administration of government in Arkansas and immediate implementation of the provisions of this act is necessary to maintain experienced public employees in the ranks of state and local government. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 535, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second

General Assembly, that the exact percentage of the DROP contribution for the Arkansas Public Employees Retirement System should be specified in the law and for the effective administration of the System in this act must be effective at the beginning of the fiscal year because computations are made at the beginning of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1325, § 14: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in the State Highway Employees' Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective, and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

### 24-4-801. Participation.

(a) In lieu of terminating employment and accepting a retirement benefit under the Arkansas Public Employees' Retirement System pursuant to §§ 24-2-101 et seq. and 24-3-101 et seq., any person who is a member of the system and who meets the conditions specified in subsection (b) of this section may elect to participate in the Arkansas Public Employees' Retirement System Deferred Retirement Option

Plan and to defer the receipt of retirement benefits in accordance with the provisions of this subchapter.

(b) The conditions required for full participation in the plan are that the member must have at least thirty (30) years of actual service in the system.

(c) The Board of Trustees of the Arkansas Public Employees' Retirement System, in consultation with its actuary, may promulgate rules and regulations lowering the required years of service for entry into the plan to an amount of not less than twenty-eight (28) years of service, subject to an early participation reduction. The reduction will be computed in a manner that is both equitable to all members and actuarially appropriate for the system.

**History.** Acts 1997, No. 1052, § 1; 1999, No. 1325, § 2.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and

24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

Pursuant to Acts 1999, No. 1325, § 10, the amendment to this section is effective July 30, 1999.

**Amendments.** The 1999 amendment, in (b), deleted "minimum" preceding "conditions", and inserted "full" preceding "participation"; added (c); and made stylistic changes.

## **24-4-802. Eligibility — Effect of election.**

(a) When a member of the Arkansas Public Employees' Retirement System elects participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan, the member shall fill out an application form as developed by the Board of Trustees of the Arkansas Public Employees' Retirement System. The member's application shall be reviewed to determine whether or not the member meets the eligibility requirements specified in this subchapter. The member's deferred retirement option date shall be the later of:

(1) The first day of the second month following the system's determination that the member is eligible for plan participation; or

(2) The date requested by the member on the application.

(b)(1) A member who elects participation in the plan may elect one (1) of the annuity options provided in § 24-3-203.

(2) The election shall be deemed to apply to the member's deferred retirement option plan benefit as well as to the member's monthly retirement benefit from the system at the time it becomes payable.

(c)(1) The election to participate in the plan is irrevocable and the duration of participation in the plan for active members shall not exceed five (5) years.

(2) Under no circumstances shall a member receive service credit under any state-supported retirement system during a period of participation or following a period of such participation in the plan.

(d) When a member begins participation, both employee and employer contributions to the system on behalf of the member shall cease.

**History.** Acts 1997, No. 1052, § 2.

**A.C.R.C. References** to “this chapter” in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-

704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

### **24-4-803. Amount of benefit — Amount of contribution — Interest.**

(a)(1) The member’s deferred benefit shall be the monthly benefit to which the member would have been entitled if the member had thirty (30) years of service and had actually retired on the member’s deferred retirement option date with regard to the provisions of § 24-3-203 related to annuity options.

(2) If the member has less than thirty (30) years of actual service, but at least twenty-eight (28) years of service, the portion of the member’s deferred benefit that is contributed to the Arkansas Public Employees’ Retirement System Deferred Retirement Option Plan will be reduced by such percentage established by the Board of Trustees of the Arkansas Public Employees’ Retirement System, and then shall be subject to the additional computations as set forth in subsections (b) and (c) of this section.

(b) The member’s deferred option account shall be the account in which shall be accumulated the member’s deferred option contributions, plus interest. Effective July 1, 1999, the Arkansas Public Employees’ Retirement System’s deferred option contributions shall be at least seventy-five percent (75%) of the system’s deferred option benefit with the exact contribution to be determined in accordance with the rules and regulations of the board as is actuarially appropriate for the system. The member shall be informed of the amount of his deferred option contribution and informed that his selection of the deferred retirement option, the time of the retirement deferral, and the selection of the retirement annuity are irrevocable.

(c) The interest on contributions to the member’s deferred option account shall be credited to the individual account balance of the member on an annual basis at the end of each fiscal year. The board shall determine the rate of interest to be credited to each member’s deferred option account.

**History.** Acts 1997, No. 1052, § 3; 1999, No. 535, § 1; 1999, No. 1325, § 3.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-

733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

Acts 1999, No. 1325, § 10 provided: “Sections 2 and 3 of this act shall not be effective until the effective date for acts of Regular Session of the Eight-second General Assembly that do not have an Emergency Clause.”

Pursuant to Acts 1999, No. 1325, § 10,



the amendment to this section by Acts 1999, No. 1325, §§ 2 and 3 is effective July 30, 1999.

**Amendments.** The 1999 amendment by No. 535 rewrote (b); and deleted "with interest to be paid on the mean balance in the account for the fiscal year" at the end of (c).

The 1999 amendment by No. 1325 added (a)(2); inserted "thirty (30) years of service and had" preceding "actually retired" in (a)(1); and made stylistic changes.

#### **24-4-804. Cessation of participation.**

(a) The member's participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan shall cease at the time the member separates from service and is granted a monthly retirement benefit by the Board of Trustees of the Arkansas Public Employees' Retirement System.

(b)(1)(A) When the member's participation in the plan ceases, the member may elect to receive the balance in the deferred option account as a lump sum or as a monthly benefit paid in the form elected by the member for payment of the deferred retirement benefit.

(B) The board shall determine factors to be used for the conversion of deferred option account balances to monthly amounts.

(2) Furthermore, when the member's participation in the plan ceases, the board shall cause the member's annuity benefit to be paid directly to the member in the form of regular monthly amounts in the same amount and manner as would have been the case if the member had retired on the deferred retirement option date and had made the same election pursuant to § 24-3-203 that was made on or before the deferred retirement option date.

**History.** Acts 1997, No. 1052, § 4.

**A.C.R.C.** References to "this chapter" in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-

704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

#### **24-4-805. Death or disability.**

(a) In the event that an Arkansas Public Employees' Retirement System Deferred Retirement Option Plan participant dies, the benefits payable from the Arkansas Public Employees' Retirement System shall be determined as though the participant had separated from service and been found eligible for monthly benefits by the Board of Trustees of the Arkansas Public Employees' Retirement System on the day prior to the death, with death following immediately thereafter.

(b) In the event that a plan participant applies for benefits from the system pursuant to § 24-3-208 related to disability retirement, the application shall be treated as an application for voluntary retirement pursuant to § 24-3-201 and no benefits other than those that would be payable without regard to the disability shall become payable.

**History.** Acts 1997, No. 1052, § 5.

**A.C.R.C.** References to “this chapter” in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-

704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

## **24-4-806. Limitation on benefit enhancement.**

(a) No benefit enhancement provided for by this subchapter shall be implemented if it would cause the publicly supported retirement system’s unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by this subchapter shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 1052, § 6.

**A.C.R.C.** References to “this chapter” in §§ 24-4-101 — 24-4-202, 24-4-205 — 24-4-304, 24-4-401 — 24-4-501, 24-4-507, 24-4-508, 24-4-510 — 24-4-514, 24-4-516 — 24-4-603, 24-4-605 — 24-4-619, 24-4-

704 — 24-4-707, 24-4-710, 24-4-712, 24-4-714, 24-4-723, 24-4-724, 24-4-726, 24-4-727, 24-4-729, 24-4-732, 24-4-733, 24-4-737, 24-4-739 — 24-4-742, and 24-4-745 — 24-4-747 may not apply to this section which was enacted subsequently.

## **CHAPTER 5**

### **ARKANSAS STATE HIGHWAY EMPLOYEES’ RETIREMENT**

#### **SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. DEFERRED RETIREMENT OPTION PLAN.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to §§ 24-5-110, 24-5-111, 24-5-119 — 24-5-131, 24-5-133, and 24-5-201 — 24-5-203, which were enacted subsequently.

**Publisher’s Notes.** Due to the enactment of subchapter 2 by Acts 1997, No. 1073, the existing provisions of this chapter have been designated as subchapter 1.

#### **SUBCHAPTER 1 — GENERAL PROVISIONS**

##### **SECTION.**

- 24-5-101. Definitions.
- 24-5-102. Penalty.

##### **SECTION.**

- 24-5-103. Establishment of system.
- 24-5-104. Board of trustees.

## SECTION.

- 24-5-105. Cost of administration — Payment of benefits and adjustment of errors.
- 24-5-106. Establishment of retirement fund.
- 24-5-107. Membership.
- 24-5-108. Members' contributions.
- 24-5-109. Employer's contribution.
- 24-5-110. Credit for prior and current service in department.
- 24-5-111. Credit for prior service with public employer.
- 24-5-112. Eligibility for benefits — Voluntary retirement.
- 24-5-113. Eligibility for benefits — Disability retirement.
- 24-5-114. Eligibility for benefits — Early retirement.
- 24-5-115. Benefits generally.
- 24-5-116. Benefits — Death of member or retirant.
- 24-5-117. Benefits — Withdrawal from service.
- 24-5-118. Benefits — Annuity options.
- 24-5-119. Redetermination of benefits.

## SECTION.

- 24-5-120. Increase in monthly retirement benefit — Schedule.
- 24-5-121. Life annuities for surviving spouse — Return of funds previously withdrawn.
- 24-5-122. Early retirement incentives.
- 24-5-123. Credit for military service.
- 24-5-124. Minimum monthly benefit.
- 24-5-125. Eligibility to receive increase in benefits.
- 24-5-126. Increase in benefits.
- 24-5-127. Creditable service.
- 24-5-128. Increase in monthly retirement benefit — 1993.
- 24-5-129. Increase in monthly retirement benefit — Acts 1997, No. 349.
- 24-5-130. Increase in monthly retirement benefit — Acts 1997, No. 386.
- 24-5-131. Limitation on benefit enhancement — Acts 1997, Nos. 1067 and 1089.
- 24-5-132. [Repealed.]
- 24-5-133. Early participation.

**A.C.R.C. Notes.** Acts 1991, No. 198, § 1, provided: "Effective July 1, 1991, the annual retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees Retirement System who retired or retire prior to January 1, 1990, and who are entitled to receive an annuity for July 1991, shall receive a one-time payment equal to three percent (3%) of the annualized annuity payable on July 1, 1991."

Acts 1991, No. 198, § 2, provided: "The increase in benefits as provided in Section 1 of this act shall not be added to the base annuity for the purpose of computing the annual post-retirement increase as provided in Ark. Code Ann. § 24-5-119(a) for the benefit redetermination July 1, 1991, or for any years thereafter."

**Publisher's Notes.** Acts 1993, No. 930, § 4, provided: "All laws or parts of laws in conflict with this act are hereby repealed, provided, none of the amendments contained in this Act are intended to nor shall they be construed to amend or affect any of the state-supported retirement system laws of this State, with the exception of the laws pertaining to the Arkansas State Highway Employees."

Due to the enactment of subchapter 2 by Acts 1997, No. 1073, the existing provisions of this chapter have been designated as Subchapter 1.

**Effective Dates.** Acts 1967, No. 254, § 4: Mar. 10, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of employees of the State Highway Department have not obtained prior service, or current service credit under the State Highway Employees Retirement System, and that other employees who have obtained previous service in other State agencies are unable under existing laws to obtain prior service credit for such previous service and that the immediate passage of this act is necessary in order to permit such employees to make application for and obtain credit for such service under the State Highway Employees Retirement System. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1969, No. 167, § 12: July 1, 1969.

Acts 1971, No. 246, § 4: Mar. 9, 1971.



Emergency clause provided: "It is hereby found and determined by the General Assembly that the providing of reasonable and adequate retirement benefits for employees of the Highway Department and their beneficiaries is necessary to provide the Highway Department Employees with more flexibility in providing for their retirement and for their dependents; and that immediate passage of the Act is necessary to make available to the members of the State Highway Employees Retirement System dependents' benefits as are now available to employees of other State Agencies; therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 458, § 3: Mar. 30, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain career employees of the State Highway Department who were retired and drawing benefits under the system have died since July 1, 1969, leaving surviving spouses for which no survivor benefits are provided in the State Highway Employees Retirement System law; that legislation is presently pending to provide optional survivor benefits for survivors of deceased members of the system and that provisions should be made for survivor benefits for the surviving spouses of the members of the system who have died after retirement and subsequent to July 1, 1969 and that this act is immediately necessary to provide such benefits. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 185, § 3: Feb. 26, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain career employees of the State Highway Department who were retired and drawing benefits under the system have died since July 1, 1969, leaving surviving spouses for which no survivor benefits are provided in the State Highway Employees Retirement System law; that provisions should be made for survivor benefits for the surviving spouses of the members of the system who have

died after retirement and subsequent to July 1, 1969, and that this Act is immediately necessary to provide such benefits. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 599, § 7: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act change the rate of contributions, and option provisions under the Arkansas State Highway Employees Retirement System; and, in order to enable persons to receive proper benefits thereunder without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1977, No. 722, § 6: Mar. 20, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act make the changes necessary to provide for the unfunded liabilities of the System by a change in the rate of Employer contributions to the Arkansas State Highway Employees Retirement System, and therefore the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect on and after March 20, 1977."

Acts 1979, No. 126, § 4: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly, that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1979 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1979."

Acts 1979, No. 821, § 6: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act change the rate of contributions, and benefits under the Arkansas State Highway Employees Retirement System; and, in order to enable persons to receive proper benefits thereunder without undue delay, the General Assembly hereby determines that the immediate passage of this Act is essential. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 295, § 14: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that essential provisions of the System's retirement statutes are hereby changed, and in order that the members of the System may receive proper benefits thereunder, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect on and after July 1, 1981."

Acts 1983, No. 464, § 4: Mar. 15, 1983. Emergency clause provided: "The benefits of a Straight Life annuity should be made available to the retirants who chose Option B and whose beneficiaries have predeceased them and it is hereby found and determined by the General Assembly that this Act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 479, § 4: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas State Highway Employees Retirement System should provide an increase in annuities for those members and beneficiaries who retired before July 1, 1982. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect on and after July 1, 1983."

Acts 1985, No. 106, § 3: July 1, 1985.

Emergency clause provided: "The benefits of Option C should be made available to the retirants who retired before options were available and it is hereby found and determined by the General Assembly that this Act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 379, § 4: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas State Highway Employees Retirement System law needs to be amended to allow retirement with thirty (30) years creditable service without penalty to otherwise eligible employees. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985"

Acts 1985, No. 611, § 4: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas State Highway Employees Retirement System should provide an increase in annuities for those members and beneficiaries who retired before July 1, 1984. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect on and after July 1, 1985."

Acts 1987, No. 119, § 3 Mar. 4, 1987. Emergency clause provided: "The appointment of a beneficiary and changing of options should be made available to the retirants as expeditiously as possible and it is hereby found and determined by the General Assembly that this Act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 187, § 11: Mar. 12, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that a reduction in work force caused by budgetary constraints may be



avoided by offering early retirement incentives; that to offer early retirement incentives and to avoid unnecessary layoffs this Act should take effect immediately upon its passage. Therefore, an emergency is declared and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 213, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1987 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1987 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1987, No. 315, § 3: Mar. 19, 1987. Emergency clause provided: "The appointment of a beneficiary and changing of options should be made available to the retirants as expeditiously as possible and it is hereby found and determined by the General Assembly that this Act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 455, § 4: Mar. 30, 1987. Emergency clause provided: "There are some military veterans that have been excluded by prior laws and have been unable to purchase service credit in the Highway Employees Retirement System for their military time. To correct this oversight, and to enable the members to purchase some service credit in the system for the time spent in service of their country, it is hereby determined that an emergency exists, and this act, being nec-

essary for the immediate preservation of the public health, welfare, and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 41, § 5: Feb. 7, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that some confusion has arisen concerning the calculation of retirement benefits for members of the Arkansas State Highway Employees' Retirement System following two legislative increases which were not codified from the statute to the Arkansas Code in 1987; that in order to clarify that such enactments did result in an increase in the multiplier and avoid further confusion, the immediate passage of this act is necessary. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 243, § 5: Feb. 27, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the Arkansas State Highway Employees' Retirement System law needs to be amended to allow members to accrue more than thirty-five (35) years of creditable service. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 245, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided under the Arkansas State Highway Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in full force and effect on and after July 1, 1991."

Acts 1991, No. 246, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that benefits provided under the Arkansas State Highway Employees Retirement System are



inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 380, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System, the Arkansas State Police Retirement System and the Arkansas State Highway Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 359, § 5: Mar. 3, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that the service rendered on the Arkansas Highway Commission by many people has not been adequately rewarded for many years, that to not reward these services with vesting will create an inequity for all eligible employees, and that the effective and efficient administration of the state government demands that this inequity be corrected immediately. Therefore, in order to correct this inequity, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 929, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas State Highway Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and ben-

eficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1993."

Acts 1993, No. 930, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the amendments contained in this Act are necessary in order for the Arkansas State Highway and Transportation Department to continue to retain and recruit efficient and skilled employees and by immediately decreasing the number of months from sixty to forty-eight for the purposes of ascertaining "average compensation" for retirement benefit purposes will greatly assist such retention and recruitment efforts. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1993."

Acts 1995, No. 407, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the retirement benefits provided to retirants and beneficiaries under the Arkansas State Highway Employees' Retirement System are inadequate and that the benefits should be increased as soon as practicable without delay in order to avoid an undue hardship to many retirants and beneficiaries. Therefore, in order to avoid any undue hardship on retirants, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for

the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 347, § 10: Mar. 5, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current trend in employment for workers in the United States is for employees to work for shorter periods of time and to work for more than one employer during their working years; that the trend for retirement systems in the United States is to require shorter vesting periods for employees in order to adjust to this reality in U. S. employment patterns; that the current Highway Employees' Retirement System law requires a ten-year vesting period; and that it is critically necessary for the Highway Employees' Retirement System law to be amended to meet these changing patterns in employee benefits within the United States as soon as possible and this act should have immediate effect. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 349, § 6: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly that the amendments contained in this Act are necessary in order for the Arkansas State Highway and Transportation Department to continue to retain and recruit efficient and skilled employees; that immediately decreasing the number of months from forty-eight to thirty-six for the purposes of ascertaining 'average compensation' for retirement benefit purposes will greatly assist such

retention and recruitment efforts; that benefits provided to retirants and beneficiaries under the Arkansas State Highway Employees' Retirement System are inadequate; and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1997."

Acts 1997, No. 386, § 6: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that benefits provided under the Arkansas State Highway Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship; in order for the Arkansas State Highway and Transportation Department to continue to retain and recruit efficient and skilled employees and by immediately increasing the multiplier amount for retirement benefit purposes will greatly assist such retention and recruitment efforts; and that benefits provided to retirants and beneficiaries under the Arkansas State Highway Employees' Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1997."

Acts 1997, No. 955, § 5: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that current law requires State Highway Department employees to be members of the Highway Employees' Retirement System even if they are retired from another state-supported retirement system; that this violates a longstanding policy of prohibiting persons from earning service credit in two (2) state-supported retirement systems; and the law should be changed to limit the eligibility for double service credit to only those Highway employees' currently eligi-



ble and required to be members. Therefore, in order to restore a longstanding policy principle, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 1053, § 28: July 1, 1998.

Acts 1997, No. 1067, § 6: Apr. 3, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas Code 24-5-118 contains language describing a retirement option that is no longer available and does not set forth the spouse's benefits upon the death of the retirant. Therefore, in order to more effectively administer retirement funds an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1089, § 6: Apr. 3, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the State Highway Employees' Retirement System was created to benefit the employees of the Arkansas Highway Department; that, in the event of a member's death, the financial interests of the member's spouse and his dependents are often adversely affected and left in crisis; and it is immediately necessary to fill in this financial gap in the best interest of the member-employees and the State. Therefore, in the best interest of the State, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall

become effective on the date the last house overrides the veto."

Acts 1999, No. 32, § 5: Feb. 8, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that unless the accounting needs of the Arkansas State Highway Employees' Retirement System are immediately automated, delays could occur in preparing accurate financial statements and delays could occur in the recording of investment transactions, which statements and recordings are required to be maintained by State and federal laws and regulations; that such delays could work irreparable harm upon the proper administration of essential governmental programs; and in order to avoid these delays, this act should take effect immediately upon its passage and approval. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 311, § 6: Feb. 25, 1999. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that, due to the ever escalating costs of health insurance and health care, benefits provided under the Arkansas State Highway Employees' Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1999."

Acts 1999, No. 335, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided under the Arkansas State Highway Employees' Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship.



Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1999."

Acts 1999, No. 1066, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that benefit provisions applicable to local officers and employees need revision, and that the effective administration of this act makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1325, § 14: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in the State Highway Employees' Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective, and that it is necessary to implement

the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1508, § 19: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

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## 24-5-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Accumulated contribution" means the sum of all amounts deducted from the salary or wages of a member, or paid by a member, and credited to his individual account, together with any interest the board may have authorized to be credited to the member's account;

(2) "Average compensation" means the average of the highest annual compensation paid a member during any period of thirty-six (36) consecutive months of creditable service with a "state employer", as the term "state employer" is defined in § 24-2-401;

(3) "Board" means the Board of Trustees of the Arkansas State Highway Employees' Retirement System as created by this chapter;

(4)(A) "Creditable service" means the current service of the member plus the portion of prior service time for which contributions have been made or elected to be made by the member.

(B) Retirement benefits shall be computed upon the creditable service of the member.

(C) The board shall determine by appropriate rules and regulations how much service in any fiscal year is the equivalent of a year of creditable service;

(5) "Current service" means service as an employee of the Arkansas State Highway and Transportation Department after the date of establishment of the system and may include the period of time during which the employee's service may have been interrupted by service in the armed forces of the United States. The annual earnings for a military service period shall be computed in the manner set forth for prior service in subdivision (11) of this section;

(6)(A) "Employee" means any employee of the Arkansas State Highway and Transportation Department whose compensation is, or was, payable on an hourly, biweekly, monthly, annual, or other basis by the department, including any employee of the department whose salary is paid or reimbursed, in whole or in part, from federal or other funds.

(B) The term "employee" specifically shall not include persons who are employees of the Arkansas State Highway and Transportation Department on or after July 1, 1997, and who are eligible for benefits under, or who are earning a retirement benefit from, another state-supported retirement system;

(7) "Employer" means the Arkansas State Highway and Transportation Department;

(8) "Lump-sum service" means that, upon termination of employment with the Arkansas State Highway and Transportation Department for whatever reason, all lump-sum payments of leave, salary, or other compensation shall be earnings for retirement purposes. Both the time and amount paid shall be considered for purposes of computing average earnings and service in the Arkansas State Highway Employees' Retirement System, and both the member's and the employer's contribution rates shall apply to the lump-sum payments;

(9) "Member" means any person who has, by due process, had issued to him a certificate of membership in the Arkansas State Highway Employees' Retirement System;

(10) "Prior service" means all service as an employee of the Arkansas State Highway and Transportation Department prior to the date of establishment of the system;

(11)(A) "Prior service earnings" means the authenticated record filed with and approved by the board setting forth the salary received by the member for each fiscal year, or portion thereof, of his prior service as an employee, beginning with his last year of prior service and continuing in reverse chronological order.

(B) Prior service earnings records may include the period of time during which the employee's service may have been interrupted for service in the armed forces of the United States, in which case the annual earnings for the military service period of the member shall be computed upon the average of his last twelve (12) months' compensation from the Arkansas State Highway and Transportation Department prior to his entry into the armed forces and the first

twelve (12) months' compensation after reemployment by the department;

(12) "Salary" or "compensation" means the total remuneration earned by an employee for services rendered during any consecutive twelve (12) months or fraction thereof; and

(13) "System" means the Arkansas State Highway Employees' Retirement System.

**History.** Acts 1949, No. 454, § 1; 1953, No. 403, §§ 1, 2; 1969, No. 167, § 1; 1979, No. 126, § 1; 1981, No. 295, §§ 1, 2; 1983, No. 464, § 1; A.S.A. 1947, § 76-1901; Acts 1993, No. 930, § 1; 1997, No. 349, § 1; 1997, No. 955, § 1.

**Amendments.** The 1993 amendment rewrote former (6) and made other minor changes.

The 1997 amendment by No. 349 substituted "thirty-six (36) consecutive months" for "forty-eight (48) consecutive months" in former (6).

The 1997 amendment by No. 955 added former (3)(B).

### 24-5-102. Penalty.

Any person who knowingly makes any false statement or who falsifies any record or records in an attempt to defraud the Arkansas State Highway Employees' Retirement System as a result of such act shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than one hundred dollars (\$100) or imprisonment for a maximum of six (6) months in jail, or both.

**History.** Acts 1949, No. 454, § 6; 1981, No. 295, § 6; A.S.A. 1947, § 76-1906.

### 24-5-103. Establishment of system.

There is created and established a retirement system for employees of the Arkansas State Highway and Transportation Department to be known as the Arkansas State Highway Employees' Retirement System, all the business of which shall be transacted through a board of trustees as provided for in this chapter.

**History.** Acts 1949, No. 454, § 2; A.S.A. 1947, § 76-1902.

### 24-5-104. Board of trustees.

(a) The administration and control of the Arkansas State Highway Employees' Retirement System shall be vested in a board known as the Board of Trustees of the Arkansas State Highway Employees' Retirement System.

(b)(1) The board shall consist of six (6) members:

(A) The Treasurer of State;

(B) The Director of the Department of Finance and Administration;



(C) The Chief Engineer of the Arkansas State Highway and Transportation Department;

(D) A retiree from the Arkansas State Highway and Transportation Department; and

(E) Two (2) regularly qualified members of the system.

(2) The board shall cause an election to be held by letter ballot in June of each year, after thirty (30) days' written notice to the membership, for the purpose of electing two (2) employee members and one (1) retiree member who shall serve for two (2) years.

(3) In case of a vacancy of any employee member of the board, the board shall fill the vacancy until the next regular election, when the vacancy shall be filled by the election procedure specified in subsection (b) of this section.

(c) The officers of the board shall be a chairman and a vice chairman, who shall be selected annually from their own number by the board, and an executive secretary, who shall be an accountant in the Arkansas State Highway and Transportation Department Accounting Division designated by the board to serve as executive secretary, without power to vote and who shall perform the duties provided in this section.

(d) The duties of the board shall be:

(1) To make all rules and regulations necessary and proper for carrying out the provisions of this chapter;

(2) To provide administrative direction and control of the executive secretary and such clerical staff as may be required;

(3) To provide for actuarial valuations if and when the board deems such action necessary;

(4) To exercise discretionary power and authority in the investment and disbursement of the funds of the system, subject to the conditions prescribed in this chapter;

(5) To designate the necessary medical examiners for disabled members as provided in this chapter;

(6) To serve without pay but may receive expense reimbursement in accordance with § 25-16-901 et seq.;

(7)(A) To provide a one million dollar (\$1,000,000) blanket fidelity bond covering board members and those employees of the department who may be responsible for administering the funds.

(B) The premiums for the bond may be paid from the funds appropriated for the administration of the system or may be considered as a cost of administration and borne by the department as provided in § 24-5-105(a); and

(8) To do any and all things necessary for the proper execution of this chapter.

(e) The duties of the executive secretary shall be:

(1) To keep all minutes and other records as directed by the board;

(2) To set up and maintain separate accounts for each member of the system to show the payroll deductions and to transmit the deductions to the bank designated by the trustees as the depository for the system or to the State Treasury, as appropriate;

(3) To prepare and sign, as directed by the board, all vouchers for all valid claims;

(4) To serve without additional compensation other than as an employee of the department;

(5) To perform such other administrative duties as may be directed by the board for carrying out the provisions of this chapter; and

(6) To cast the deciding vote should a tie vote arise.

**History.** Acts 1949, No. 454, §§ 3, 6; 1953, No. 403, § 3; 1969, No. 167, § 2; 1981, No. 295, §§ 3, 6; A.S.A. 1947, §§ 76-1903, 76-1906; Acts 1993, No. 615, §§ 1-3; 1997, No. 250, § 229.

**A.C.R.C. Notes.** The operation of subdivision (d)(7) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subdivision may again become effective upon cessation of coverage under that program. See § 21-2-703.

**Publisher's Notes.** The terms of the two employee members of the Board of Trustees of the Arkansas State Highway Employees' Retirement System are arranged so that one term expires every year.

The reimbursement provision in subdivision (d)(6) of this section may be affected by § 25-16-901 et seq. concerning mileage reimbursement for members of state boards and commissions.

**Amendments.** The 1993 amendment, in (b)(1), substituted "six (6) members" for "five (5) members"; substituted "Treasurer of State" for "State Treasurer", and inserted "a retiree from the Arkansas State Highway and Transportation Department" following "Transportation Department"; substituted "two (2) employee members and one (1) retiree member" for "an employee member" in (b)(2); and added (e)(6).

The 1997 amendment rewrote (d)(6).

**Cross References.** Investments, § 24-3-401 et seq.

## **24-5-105. Cost of administration — Payment of benefits and adjustment of errors.**

(a) The cost of administering the plan shall be borne by the Arkansas State Highway and Transportation Department, except that the Arkansas State Highway Employees' Retirement System shall pay the expenses incurred for the actuary, the consultant for investments, fees for the members of the medical board of the system, expenses associated with automating the accounting needs of the system, and forms purchased from vendors and identified by letterhead printing as those of the Arkansas State Highway Employees' Retirement System.

(b)(1) The Treasurer of State shall pay retirement benefits, as defined in this chapter, to retirants only on vouchers signed by the executive secretary of the system, or other authorized person, and on warrants or checks issued by the Auditor of State or other designated officer of the state.

(2)(A) The designated disbursing officers for the system are authorized to complete and sign one (1) certification for each state voucher or other designated document that authorizes the Auditor of State, or other official, to draw a state warrant or check on a fund administered by the system.

(B)(i) The voucher or other authorizing document can consist of one (1) or more pages.

- (ii) In the event that more than one (1) page is used, then the designated disbursing officer is to manually sign the last page only, and any certification is to be so worded that it will apply to all pages of the document.
- (c)(1) Should any change or error in the records of the system result in any member's receiving more or less than he would have been entitled to receive had the records been correct, the Board of Trustees of the Arkansas State Highway Employees' Retirement System, upon discovery of the error and so far as is practicable, shall adjust the payments in such a manner that the benefit to which the member was justly entitled shall be paid.
- (2) In the event that an overpayment is made to anyone, every legal effort shall be made to recover the overpayment.

**History.** Acts 1949, No. 454, § 6; 1981, No. 295, § 6; A.S.A. 1947, § 76-1906; Acts 1987, No. 213, § 2; 1999, No. 32, § 1.

inserted “expenses associated with automating the accounting needs of the system” in (a); and made stylistic changes.

**Amendments.** The 1999 amendment

### 24-5-106. Establishment of retirement fund.

- (a) There is created a trust fund to be known as the Arkansas State Highway Employees' Retirement System Fund, which shall be the depository for moneys in the State Treasury or the designated bank as provided for in this chapter.
- (b) The employer shall draw vouchers, or cause vouchers to be drawn, upon the State Highway and Transportation Department Fund for the deposit in the Arkansas State Highway Employees' Retirement System Fund for such sums of money as are provided in § 24-5-109 to match employee contributions as certified by the executive secretary in accordance with the provisions of §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118.
- (c)(1) The Treasurer of State, or a designated bank, shall be the legal custodian of the securities of the system, subject to the orders and directions of the Board of Trustees of the Arkansas State Highway Employees' Retirement System.
- (2) The Arkansas State Highway Employees' Retirement System may deposit with the Treasurer of State, or a designated bank, safekeeping receipts or, in the case of federal bookkeeping entries, the evidence of investment that is issued in lieu of the actual securities.
- (d) The Attorney General shall serve as legal advisor to the board.
- (e) It shall be the duty of the Legislative Auditor to audit the finances of the system once a year or more often if either the auditor or the board consider such action necessary.

**History.** Acts 1949, No. 454, § 4; 1969, No. 167, § 3; 1981, No. 295, §§ 4, 5; A.S.A. 1947, § 76-1904.



**24-5-107. Membership.**

(a) Any employee of the Arkansas State Highway and Transportation Department, as defined in § 24-5-101(6), shall become a member of the Arkansas State Highway Employees' Retirement System in the manner and under the conditions provided in this chapter.

(b) Membership in the system may be terminated by retirement, disability, superannuation, or death, or by withdrawal, either voluntary or involuntary, from active service in the department.

(c) Any member with not less than five (5) years of creditable service whose employment with the department is terminated for any reason may leave his contributions in the Arkansas State Highway Employees' Retirement System Fund and thereafter be entitled to retirement benefits as otherwise provided in this chapter.

**History.** Acts 1949, No. 454, §§ 7, 8; by No. 347 substituted "five (5) years" for 1969, No. 167, § 4; A.S.A. 1947, §§ 76- "ten (10) years" in (c).  
1907, 76-1908; Acts 1997, No. 347, § 1; The 1997 amendment by No. 1053 also  
1997, No. 1053, § 12. substituted "five (5) years" for "ten (10)

**Amendments.** The 1997 amendment years" in (c).

**CASE NOTES**

**Cited:** Scott v. Greer, 229 Ark. 1043, 320 S.W.2d 262 (1959).

**24-5-108. Members' contributions.**

(a) All members of the Arkansas State Highway Employees' Retirement System shall be assessed six percent (6%) of their salaries and wages by payroll deductions, and the executive secretary shall transmit the payroll deductions from the employees' salaries and wages to the bank designated as the depository for the funds of the system or to the Treasurer of State, as appropriate.

(b)(1)(A) As a means of increasing his annual annuity benefits, a member may elect, upon approval by the Board of Trustees of the Arkansas State Highway Employees' Retirement System, to pay into the Arkansas State Highway Employees' Retirement System Fund to the credit of his account an amount equal to four percent (4%) of his earnings for each year of his authenticated prior and current service not covered, plus such interest as the board may prescribe.

(B) Each year, or fractional part thereof, for which such prior and current service contributions are paid shall be added to the current service record of the member in computing his retirement benefits under the provisions of §§ 24-5-115 — 24-5-118, subject to the provision that no member may accrue more than thirty-five (35) years of creditable service.

(2)(A)(i) As a means of increasing his annual annuity benefits, a member may elect, upon approval by the board, to pay into the fund to the credit of his account an amount equal to four percent (4%) of the amount that his earnings exceeded seven thousand five hundred

dollars (\$7,500) per annum for periods previously covered through June 30, 1969, plus such interest as the board may prescribe.

(ii) These earnings in excess of seven thousand five hundred dollars (\$7,500) per annum on which supplemental contributions have been paid shall be credited to his average compensation in his service record in computing his retirement benefits under the provisions of §§ 24-5-115 — 24-5-118.

(B) The plan for such payment shall be as prescribed by the board.

(c) It is expressly guaranteed that all member contributions shall be held in trust for the exclusive benefit of the individual contributor.

**History.** Acts 1949, No. 454, § 9; 1953, No. 599, § 1; 1977, No. 722, § 1; 1981, No. 403, §§ 6, 7; 1969, No. 167, § 5; 1975, 295, § 7; A.S.A. 1947, § 76-1909.

### **24-5-109. Employer's contribution.**

(a) The employer shall match all member contributions with a twelve and nine-tenths percent (12.9%) contribution from the fund from which the employees are paid their gross earnings, computed on the basis of the payroll earnings, including overtime and lump sum payments, of the members of the Arkansas State Highway Employees' Retirement System.

(b) In matching contributions paid under the provisions of § 24-5-108(b), the employer shall match all member contributions for authenticated prior and current service as follows:

(1) Four percent (4%) contribution for service through August 15, 1969;

(2) Six percent (6%) contribution for service from August 15, 1969, to July 1, 1975;

(3) Nine and nine-tenths percent (9.9%) contribution for service from June 30, 1975, to March 20, 1977;

(4) Eleven percent (11%) contribution for service from March 19, 1977, to July 1, 1979;

(5) Twelve and sixty-five hundredths percent (12.65%) contribution for service from June 30, 1979, to June 25, 1981; and

(6) Twelve and nine-tenths percent (12.9%) contribution for service from June 24, 1981.

(c)(1) In the event that sufficient money is provided to the system to pay the increase in annuities as authorized by § 24-7-714 from other than the fund from which the employees are paid their gross earnings, then the employer's contribution rate for the then current year shall be twenty-five hundredths percent (.25%) less than the rate stated in subsection (a) of this section.

(2) In matching contributions under the provisions of § 24-5-108(b), the rate shall be the employer's contribution rate for the then current year.

**History.** Acts 1949, No. 454, § 10; 1979, No. 821, § 1; 1981, No. 295, §§ 8-10; 1953, No. 403, § 8; 1969, No. 167, § 6; A.S.A. 1947, § 76-1910. 1975, No. 599, § 2; 1977, No. 722, § 2;

### **24-5-110. Credit for prior and current service in department.**

(a)(1) Any employee of the Arkansas State Highway and Transportation Department may make application within one (1) year from the date of becoming a member of the Arkansas State Highway Employees' Retirement System and receive credit for any authenticated prior service rendered as an employee of the department prior to July 1, 1949.

(2) In addition thereto, the employee may receive current service credit for any service rendered as an employee of the department since July 1, 1949, and prior to the date of becoming a member of the system, upon paying into the system to the credit of his account an amount equal to four percent (4%) of his earnings, not to exceed seven thousand five hundred dollars (\$7,500) per annum, for each year of the authenticated prior service, or current service rendered prior to becoming a member of the system, in the event the employee has not previously obtained credit for such service.

(b)(1) The employee shall pay into the system such necessary contributions and interest as may be prescribed by the Board of Trustees of the Arkansas State Highway Employees' Retirement System within a period of five (5) years.

(2) Not less than one-fifth ( $\frac{1}{5}$ ) of the total prior service and current service contributions shall be paid during each year of the five-year period.

**History.** Acts 1967, No. 254, § 1; A.S.A. 1947, § 76-1913; Acts 1997, No. 347, § 2; 1997, No. 1053, § 13.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

**Amendments.** The 1997 amendment by No. 347 substituted "five (5) years" for "ten (10) years" in (b)(1); and, in (b)(2), substituted "one-fifth ( $\frac{1}{5}$ )" for "one tenth

( $\frac{1}{10}$ )" and substituted "five-year period" for "ten-year period."

The 1997 amendment by No. 1053 also substituted "five (5) years" for "ten (10) years" in (b)(1); and, in (b)(2), substituted "one-fifth ( $\frac{1}{5}$ )" for "one tenth ( $\frac{1}{10}$ )" and substituted "five-year period" for "ten-year period."

**Cross References.** Reciprocity of service credits with other systems, § 24-2-401 et seq.

### **24-5-111. Credit for prior service with public employer.**

(a) Any employee of the Arkansas State Highway and Transportation Department who became a member of the Arkansas State Highway Employees' Retirement System on or before July 1, 1967, upon application and submission of proper proof to the Board of Trustees of the Arkansas State Highway Employees' Retirement System, shall receive prior service credit for any service rendered to any public employer, as defined in § 24-4-101, prior to July 1, 1967.



(b) Before any member or employee is credited with such prior service, the member or employee shall pay into the system an amount equal to that which the member would have paid had the service to be credited been performed for the department, together with such interest as may be prescribed by the board.

(c) It is the purpose of § 24-5-110 and this section to protect employees and to provide that employees will not lose their status or retirement benefits by changing employment from one (1) state department to another state department and that employment by the Arkansas State Highway and Transportation Department and other departments shall be cumulative in calculating retirement benefits.

**History.** Acts 1967, No. 254, § 2; 24-5-118, and 24-5-204 may not apply to A.S.A. 1947, § 76-1914. this section which was enacted subsequently.

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

### **24-5-112. Eligibility for benefits — Voluntary retirement.**

(a) A member may retire voluntarily as follows:

(1) At age sixty-five (65), or during any year thereafter until the age of compulsory retirement has been attained, with a minimum of five (5) years of creditable service in the Arkansas State Highway Employees' Retirement System;

(2) At age sixty-two (62), with a minimum of fifteen (15) years of creditable service in the system;

(3) At age sixty (60), with a minimum of twenty (20) years of creditable service in the system; or

(4) Regardless of age, with thirty (30) years of creditable service in the system.

(b)(1) Any retired member who has creditable service with the Arkansas State Highway and Transportation Department for more than thirty-five (35) years and who is not receiving benefits based on his or her actual creditable service time, on February 27, 1991, shall have his or her annuity adjusted at that time.

(2) The adjustment shall be equivalent to the retirant's original annuity, adjusted for actual service time and subsequent cost-of-living and any ad hoc increases.

(3) The retirant shall be paid such adjusted annuity for each month thereafter.

(c) The Board of Trustees of the Arkansas State Highway Employees' Retirement System, by regulation, may reduce the amount of creditable service required to retire voluntarily regardless of age from thirty (30) years of creditable service to an amount of no less than twenty-eight (28) years of creditable service, if the board determines that the change is fair and just to the members of the system and that it is actuarially appropriate.

**History.** Acts 1949, No. 454, § 11; 1985, No. 379, § 1; A.S.A. 1947, § 76-1963, No. 494, § 3; 1969, No. 167, § 7; 1911; Acts 1991, No. 243, § 1; 1997, No.

347, § 3; 1997, No. 1053, § 14; 1999, No. 1325, § 5. by Nos. 347 and 1053 substituted "five (5) years" for "ten (10) years" in (a)(1).

**Amendments.** The 1997 amendments The 1999 amendment added (c).

### **24-5-113. Eligibility for benefits — Disability retirement.**

(a) A member shall be eligible for disability retirement benefits after five (5) or more years of creditable service in the Arkansas State Highway and Transportation Department, but no member shall be eligible to receive benefits for a disability incurred prior to his becoming a member of the Arkansas State Highway Employees' Retirement System.

(b) No member may be retired on account of disability until conclusive evidence, based on a proper medical examination, has been submitted to the Board of Trustees of the Arkansas State Highway Employees' Retirement System that the member is disabled to the extent that he can no longer perform his assigned duties.

(c) A member who is retired because of disability shall be required to undergo periodic medical examinations at the discretion of the board.

(d) If and when a medical examination shows that the disability has been removed, disability retirement benefits shall cease.

(e) A disability allowance shall not be granted unless there is conclusive evidence that the disability will be permanent or of long duration.

(f)(1) If a disability retirant secures employment with an employer not considered a public employer, as defined by § 24-2-401, for the purpose of determining whether he or she is capable of returning to employment, then the disability retirant shall be allowed to earn compensation from the employment for a period of time not to exceed nine (9) months, during which period of time the retirant shall receive no monthly benefits from the system.

(2) If the retirant becomes unable to continue his or her employment before the nine-month period expires, then his or her disability retirement benefits from the system shall be reinstated and be effective the first day of the month after terminating employment.

(3) Only one (1) trial work period is allowed any disability retirant, but the nine (9) months need not be consecutive.

(4) The trial work period does not prevent the consideration of any medical evidence which may demonstrate recovery before the ninth month of trial work.

(5)(A) If, at the end of the nine-month trial work period, the retirant wishes to continue his or her employment outside the system, then the disability retirement status shall terminate.

(B) For the purpose of determining eligibility for any other benefit, the retirant shall be considered to have terminated active membership as of the time of disability retirement but for a reason other than disability or death.

(6)(A) If the former disability retirant again becomes an employee of a public employer as defined by § 24-2-401, he or she shall immedi-

ately again become a member of the system, and his or her credited service at the time of disability retirement shall be restored.

(B) The amount of the accumulated contributions at the time of his or her disability retirement shall be restored to the member's deposit account, but in no event shall he or she be given service credit for the period he or she was in receipt of his or her disability annuity.

(g) As used in this section, "suitable job or position" means a job or position the requirements of which can be physically or mentally performed, as determined by a physician, and for which the remuneration would be substantially gainful, as defined by the Social Security Administration as the maximum amount that a person under sixty-five (65) may earn.

(h)(1) At least once each year, the board may require any disability retirant to submit a form attesting to his or her current work status.

(2) If such a retirant refuses to submit the form, his or her disability annuity may be suspended by the board until the form is properly submitted to the board.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability annuity may be revoked by the board.

**History.** Acts 1949, No. 454, § 11; A.S.A. 1947, § 76-1911; Acts 1997, No. 347, § 4; 1997, No. 1053, § 15.

**Amendments.** The 1997 amendment by No. 347 substituted "five (5) or more

years" for "ten (10) or more years" in (a).

The 1997 amendment by No. 1053 substituted "five (5) or more years" for "ten (10) or more years" in (a); and added (f)-(h).

## 24-5-114. Eligibility for benefits — Early retirement.

(a) In addition to retirement as provided in §§ 24-5-112 and 24-5-113, a member may retire after a minimum of five (5) years of service on and after the member's fifty-fifth birthday.

(b)(1) However, the annuity otherwise payable, as provided in § 24-5-115, shall be reduced eight-tenths percent (0.8%) for each of the first sixty (60) months, or fraction thereof, that the early retirement date precedes the earliest date that the member could retire without a reduction in the annuity.

(2) The annuity shall be reduced three-tenths percent (0.3%) for each of the next sixty (60) months, or fraction thereof, that the early retirement date precedes the earliest date that the member could retire without a reduction in the annuity.

**History.** Acts 1949, No. 454, § 11; 1981, No. 295, § 11; 1985, No. 379, § 2; A.S.A. 1947, § 76-1911; Acts 1997, No. 347, § 5; 1997, No. 1053, § 16.

**Amendments.** The 1997 amendment

by No. 347 substituted "five (5) years" for "ten (10) years" in (a).

The 1997 amendment by No. 1053 also substituted "five (5) years" for "ten (10) years" in (a).



**24-5-115. Benefits generally.**

(a)(1) Members retired for the reasons set forth in §§ 24-5-112 — 24-5-114 shall be eligible for annual retirement benefits based on two and one-tenth percent (2.1%) of their average compensation, as defined in § 24-5-101, limited to the amount upon which contributions, including supplemental contributions under the provisions of § 24-5-108(b) have been made, times the number of years of creditable service in the Arkansas State Highway Employees' Retirement System.

(2) Payments shall be made in equal monthly installments.

(b)(1) In the event a member has not completed payment of his service contributions as provided for in § 24-5-108(b) and is current in his or her service contributions at the time of retirement, the Board of Trustees of the Arkansas State Highway Employees' Retirement System is authorized to deduct from each monthly annuity payment an amount equal to one-twelfth ( $\frac{1}{12}$ ) of the unpaid balance of such service contributions.

(2) The deductions shall continue until all service contributions have been paid in full.

**History.** Acts 1949, No. 454, § 12; 1969, No. 167, § 8; A.S.A. 1947, § 76-1912; Acts 1991, No. 41, § 1; 1991, No. 246, § 1; 1997, No. 386, § 1.

**Amendments.** The 1997 amendment, in (a)(1), substituted "two and one tenth

percent (2.1%)" for "two and six one hundredths percent (2.06%)"; and substituted "board" for "Board of Trustees of the Arkansas State Highway Employees' Retirement System" in (b)(1).

**24-5-116. Benefits — Death of member or retirant.**

(a)(1) In the case of death of a member prior to retirement or of a member's beneficiary whose benefits have been deferred or who for any other reason has not withdrawn the member's contributions, the member's accumulated contributions and any life insurance policy proceeds shall become payable to the designated beneficiary or to the estate of the person having the deferred benefits if a beneficiary has not been designated or is deceased.

(2)(A) The designated beneficiary may be changed by the member or member's beneficiary in the manner prescribed by the Board of Trustees of the Arkansas State Highway Employees' Retirement System, but the designated beneficiary shall have no legal claim on any contribution made by the state with a view to the retirement of the member or member's beneficiary.

(B) A member may designate different persons to be the beneficiaries for a member's retirement and for his life insurance policy in the manner prescribed by the board.

(b)(1) If a retired member with a straight life annuity dies before he has been paid benefits equivalent to his contributions to the Arkansas State Highway Employees' Retirement System, the difference between the benefits received and his contributions while an active member of the system, together with any other balance to his credit in the system, shall be paid to his designated beneficiary.

(2) In the event there is no designated beneficiary, refund of the unpaid balance shall be paid to his estate.

(3)(A) Payment of the refund shall be made in full or in installments, as determined by the board.

(B) The benefits may be paid directly to a curator or guardian, to an administrator or administratrix, or to an executor or executrix authorized to receive such payments, wherever such representative may be, without the appointment of a representative in this state.

(c)(1) The system shall provide life insurance in the amount of fifteen thousand dollars (\$15,000) for the benefit of each of its members.

(2) The insurance shall remain in force during the life of each member until his or her retirement and shall be paid for by the system.

(3) The system may offer a similar or lesser amount of life insurance coverage on the lives of the member's spouse and his dependents with the member bearing the costs of any additional coverage.

**History.** Acts 1949, No. 454, § 12; 1979, No. 821, § 3; A.S.A. 1947, § 76-1912; Acts 1997, No. 1089, § 1. **Amendments.** The 1997 amendment added the last sentence in (a)(2); and added (c).

#### **24-5-117. Benefits — Withdrawal from service.**

(a)(1) In the case of withdrawal from service within less than one (1) year after having become a member of the Arkansas State Highway Employees' Retirement System, the Board of Trustees of the Arkansas State Highway Employees' Retirement System, upon request, shall pay to the member all of his accumulated contributions without interest.

(2)(A) If withdrawal occurs after one (1) year of membership in the system, the board, upon request, shall pay to the member all of his accumulated contributions plus interest as determined by the board.

(B) The member so reimbursed shall have no legal claim on any contribution made by the state with a view to his retirement.

(3) Payment to a member under the conditions set forth in this subsection shall be made as provided by the board.

(4) A member's interest in the system shall be exempt from attachment and execution.

(b)(1) In the case of an employee's withdrawal from service after becoming a member of the system and when the employee's contribution has accumulated to a total of less than two hundred fifty dollars (\$250), then the employee's accumulated contribution shall become forfeit to the Arkansas State Highway Employees' Retirement System Fund unless withdrawn by the former employee from the fund within the first three (3) years following the employee's termination of service with the Arkansas State Highway and Transportation Department, provided that such employee is not a member of a reciprocal system.

(2) In the event of forfeiture to the fund, the former employee shall have no further claim upon the system.

**History.** Acts 1949, No. 454, § 12; 1969, No. 167, § 9; 1979, No. 126, § 2; A.S.A. 1947, § 76-1912; Acts 1999, No. 33, § 1.

in (b)(1), substituted “two hundred fifty dollars (\$250)” for “twenty-five dollars” and added the proviso at the end; and made stylistic changes.

**Amendments.** The 1999 amendment,

## **24-5-118. Benefits — Annuity options.**

(a) Before the date the first payment of an annuity becomes due, but not thereafter, a person about to become a retirant may elect, in lieu of a straight life annuity as set forth in § 24-5-115, to have the annuity reduced and to nominate a beneficiary, as provided by Option A or Option B:

### **(1) OPTION A.**

(A) Under Option A, an annuity payable to the retirant shall be reduced to ninety percent (90%) of the annuity otherwise payable and shall be paid to the retirant for life or for one hundred twenty (120) monthly payments, whichever is longer.

(B) If the retirant dies before having received one hundred twenty (120) monthly payments of the reduced annuity, the reduced annuity to which the retirant would have been entitled, if living, shall be paid for the remainder of the one-hundred-twenty-month period to such person as the deceased retirant shall have nominated by written designation, duly executed and filed with the Board of Trustees of the Arkansas State Highway Employees' Retirement System.

(C) If the beneficiary does not survive the retirant, the retirant may name another beneficiary, or failing to name a beneficiary, the annuity reserve for the annuity for the remainder of the one-hundred-twenty-month period shall be paid to the retirant's estate.

(D) If the beneficiary survives the retirant but dies before the end of the one-hundred-twenty-month period, the annuity reserve for the annuity for the remainder of the one-hundred-twenty-month period shall be paid to the beneficiary's designated beneficiary.

### **(2) OPTION B.**

(A)(i) Under Option B, an annuity payable to the retirant shall be reduced to eighty-five percent (85%) of the annuity otherwise payable if the retirant's age and his beneficiary's age are the same on the first payment due date, and the annuity shall be decreased by one-half percent (0.5%) for each year, or fraction thereof, that the beneficiary's age is less than the retirant's age, or shall be increased by one-half percent (0.5%), up to a maximum of ninety-five percent (95%), for each year, or fraction thereof, that the beneficiary's age is more than the retirant's age.

(ii) Upon the retirant's death, one-half ( $\frac{1}{2}$ ) of the reduced annuity to which the retirant would have been entitled, if living, shall be paid to the surviving beneficiary for the remainder of his life, if the beneficiary was either the retirant's spouse for at least two (2) years immediately preceding the first payment due date of the retired member's annuity or another person age forty (40) or older on such



first payment due date receiving more than one-half ( $\frac{1}{2}$ ) of his support from the retirant for at least two (2) years immediately preceding the first payment due date of the retired member's annuity.

(iii) If both the retirant and his named beneficiary die before the annuity payments have amounted to the sum of the member's accumulated contributions and interest that is vested at the date of retirement, the difference between the benefits paid and the member's contribution account at the date of retirement shall be paid to the estate of the person to whom the last annuity preceding death was paid.

(iv) If no annuities had been paid prior to the member's death, then the balance in the member's account shall be paid to the member's estate.

(B)(i) Should the eligible beneficiary of a member retirant who selected Option B predecease the member retirant, or if divorce or other marriage dissolution occurs, or should the beneficiary who is not a spouse cease to be a qualified beneficiary, then the retirant, by written notification to the Arkansas State Highway Employees' Retirement System, may cancel Option B chosen at retirement and return to a straight life annuity, to be effective the month following receipt of the notification by the system.

(ii) The straight life annuity so elected shall then be the amount of the Option B annuity at the date of notification, less any increase that is excluded from the base annuity, multiplied by a fraction, the numerator of which is one hundred (100) and the denominator of which is the percentage of the straight life annuity that the retirant received at the date of retirement, plus the nonbase increase that was excluded in the computation. The effect of the foregoing shall be that the retirant's monthly annuity, after cancellation of Option B, shall be the same amount that it would have been had a straight life annuity been selected at the date of retirement.

(iii) No further changes in benefit options for retirants shall be permitted.

(b) If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, the applicable benefits provided in this section shall be paid upon written application to the board. It is the intent of this section to include all surviving spouses or beneficiaries, regardless of the time of the death of the member.

(c) The effective date of the benefits provided in this section shall in no event be prior to the first day succeeding the member's death.

(d) A member's surviving spouse who was married to the member at least the one (1) year immediately preceding his death shall receive an annuity computed in the same manner in all respects as if the member had:

(1) Retired the date of his death with entitlement to an annuity provided for in § 24-5-115;

(2) Elected the Option A survivor annuity provided for in § 24-5-118(a)(1); and

(3) Nominated his spouse as joint beneficiary provided for in § 24-5-118(a)(2)(A).

**History.** Acts 1949, No. 454, § 12; 1971, No. 246, § 1; 1975, No. 599, § 3; 1983, No. 464, § 2; 1985, No. 106, § 1; A.S.A. 1947, § 76-1912; Acts 1987, No. 119, § 1; 1987, No. 315, § 1; 1997, No. 347, § 6; 1997, No. 1053, § 17; 1997, No. 1067, § 1; 1999, No. 1508, § 7.

**Amendments.** The 1997 amendment by Nos. 347 and 1053 substituted “five (5) years” for “ten (10) years” in (b)(1).

The 1997 amendment by No. 1067 deleted “or a spouse in Option C” following “provided by Option A or Option B” in (a) and made minor punctuation changes; deleted (a)(3); rewrote (b); and added (c) and (d).

The 1999 amendment repealed the version of this section as amended by Acts 1997, Nos. 347 and 1053.

**24-5-119. Redetermination of benefits.**

(a) Beginning with the July 1 which is at least twelve (12) full months after the effective date of each benefit, the amount of each benefit shall be redetermined, and the redetermined amount shall be payable for the ensuing year.

(b) The redetermined amount shall be the amount of the benefit otherwise payable as of the immediately preceding July 1 increased by three percent (3%).

**History.** Acts 1975, No. 599, § 4; 1979, No. 821, § 2; 1983, No. 479, § 2; 1985, No. 611, § 2; A.S.A. 1947, §§ 76-1912.4, 76-1912.6; Acts 1987, No. 809, § 4; 1995, No. 407, §§ 1, 4; 1999, No. 335, § 1.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not

apply to this section which was enacted subsequently.

**Amendments.** The 1995 amendment repealed former (b); redesignated former (a)(2)-(4) as present (b)(1)-(3), respectively, and made related changes; and rewrote present (b)(1) and (b)(2).

The 1999 amendment rewrote (b).

**24-5-120. Increase in monthly retirement benefit — Schedule.**

(a) Effective July 1, 1987, the monthly retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees’ Retirement System who retired prior to July 1, 1985, and who receive an annuity for July 1987, shall be increased by no more than fifteen percent (15%) of the annuity received for June 1987.

(b) The fifteen percent (15%) increase shall be in accordance with the following schedule:

<u>Retired</u>	<u>Percent Increase</u>
After 6-30-85	0%
7-1-83 through 6-30-85	1%
7-1-82 through 6-30-83	2%
7-1-81 through 6-30-82	3%
7-1-80 through 6-30-81	4%
7-1-79 through 6-30-80	5%
7-1-78 through 6-30-79	6%

<u>Retired</u>	<u>Percent Increase</u>
7-1-77 through 6-30-78	7%
7-1-76 through 6-30-77	8%
7-1-75 through 6-30-76	9%
7-1-74 through 6-30-75	10%
7-1-73 through 6-30-74	11%
7-1-72 through 6-30-73	12%
7-1-71 through 6-30-72	13%
7-1-70 through 6-30-71	14%
Before 7-1-70	15%

**History.** Acts 1983, No. 479, § 1; 1985, No. 611, § 1; A.S.A. 1947, § 76-1912.5; Acts 1987, No. 809, § 3.

**A.C.R.C.** References to “this chapter”

in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

**24-5-121. Life annuities for surviving spouse — Return of funds previously withdrawn.**

- (a)(1) The surviving spouse of any person who had twenty (20) or more years of creditable service under the Arkansas State Highway Employees' Retirement System and who died subsequent to July 1, 1969, but on or before April 1, 1971, while drawing benefits under the system shall be entitled to receive a life annuity equal to forty-two and one-half percent (42.5%) of the annuity which the deceased member was receiving at the time of death.
- (2) The surviving spouse shall be entitled to receive the benefits provided for in this section from the date application therefor is made to the Board of Trustees of the Arkansas State Highway Employees' Retirement System.
- (b) If any surviving spouse of a deceased member who is otherwise entitled to receive an annuity under the provisions of this section has withdrawn any portion of the employee contributions made to the system by the deceased member, the surviving spouse shall return the funds so withdrawn with interest at the rate of three percent (3%) from the date withdrawn to the date returned to the system.

**History.** Acts 1971, No. 458, § 1; 1973, No. 185, § 1; A.S.A. 1947, § 76-1916.

**A.C.R.C.** References to “this chapter”

in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

**24-5-122. Early retirement incentives.**

- (a)(1) Any member of the Arkansas State Highway Employees' Retirement System who retires as provided in § 24-5-112, shall receive an annuity consisting of the benefits provided in §§ 24-5-115 and 24-5-118, provided the member is an active member of the system on March 12, 1987, and is vested for a full age and service annuity on



March 12, 1987, and has credit in the system for thirty-six (36) consecutive months of actual service with the system immediately prior to member's effective retirement date, and he may choose two (2) of the retirement incentives from subdivisions (a)(2)-(5) of this section, provided the member retires during the period between March 12, 1987, and January 1, 1988, inclusive.

(2) In addition to the member's regular annuity, the system will pay to the State Employees Group Insurance Plan, or a successor plan by whatever name it may be known, the total insurance premium for the health, hospitalization, and basic life insurance for the member only, provided that the member was insured by the state group plan at the date of retirement.

(3) For the purpose of computing the member's annuity, the highest twelve (12) months' salary for which contributions have been paid to the system will be substituted for the member's average compensation as provided by §§ 24-5-112 and 24-5-114 — 24-5-118.

(4) For the purpose of computing the member's annuity, an additional service credit equal to ten percent (10%) shall be added to the member's service credit at date of retirement, even though the service thus added exceeds the thirty-five (35) years maximum stated in § 24-5-112(b).

(5)(A) The retiring member may receive a retirement bonus which is a lump-sum payment equal to ten percent (10%) of the final twelve (12) months' actual salary earned by the member to date of retirement, not to exceed five thousand dollars (\$5,000).

(B) The retirement bonus shall be paid from funds appropriated to the system.

(b)(1) An active member of the system on March 12, 1987, whose benefits are vested and who is entitled to a reduced annuity as provided by § 24-5-114 on July 1, 1987, and who has credit in the system for thirty-six (36) consecutive months of actual service with the system immediately prior to the effective retirement date may choose two (2) of the retirement incentives from subdivisions (b)(2)-(6) of this section, provided the member retires during the period July 1, 1987, through January 1, 1988, inclusive.

(2) In addition to the member's reduced early annuity, the system will pay to the State Employees Group Insurance Plan, or to a successor plan by whatever name it may be known, the total insurance premium for the health, hospitalization, and basic life insurance for the member only, until the retired member has attained age sixty-five (65), provided that the member was insured by the state group plan at date of retirement.

(3) For the purpose of computing the member's reduced annuity, the highest twelve (12) months' salary, for which contributions have been paid to the system, will be substituted for the member's average compensation as provided by §§ 24-5-112 and 24-5-114 — 24-5-118.

(4) If the member is eligible for an early reduced annuity as provided by § 24-5-114 and is within two (2) years of full annuity age, then the member's annuity will not be reduced because of early retirement.

(5) If the member has attained the full benefit age as provided by § 24-5-114 and is within two (2) years of attaining the service requirement for a full annuity, then the member's annuity will not be reduced because of early retirement.

(6)(A) The retiring member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final twelve (12) months' actual salary earned by the member to date of retirement, not to exceed five thousand dollars (\$5,000).

(B) The retirement bonus shall be paid from funds appropriated to the Arkansas State Highway and Transportation Department for salaries.

(c) Any employee of the department retired under this law shall not be eligible for subsequent employment, as an employee, by any state agency whose employees are covered by a state-supported retirement system.

(d)(1) For those department employees who retire pursuant to this section, the amount paid by the system as the cost of the employee's health and basic life insurance shall not exceed the amount of the employer's contribution for the coverage on the date of the employee's retirement and may be reduced at the time the employee qualifies under medicare or medicaid programs.

(2) Any future increase in the cost of this coverage shall be borne by the employee and not by the system from which the employee retired.

(e) No position being vacated as a result of an employee's retiring pursuant to this section shall be filled without the written approval of the Governor or the Chief Fiscal Officer of the State.

**History.** Acts 1987, No. 187, §§ 5-9.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

**Publisher's Notes.** Acts 1987 (1st Ex. Sess.), No. 17, § 3, provided that the intent of the act was to give fair and equal treatment to all employees and all elected officials under the Early Retirement Incentive Act.

### **24-5-123. Credit for military service.**

(a) Any person who is a member of the Arkansas State Highway Employees' Retirement System shall be entitled to purchase creditable service in the system for a period not to exceed three (3) years for active service rendered by the member in the armed forces of the United States, after the member's first employment in a position covered by a state-supported retirement system, excluding active service for the purpose of attending schools or other peacetime training of the member in the military reserve or national guard, if the person:

(1) Has ten (10) years of creditable service with this retirement system;

(2) Received an honorable discharge from the armed forces;

(3) Is not receiving federal military service retirement pay, excluding federal military disability retirement pay;

(4) Is not qualified to claim the military service in the system under § 24-2-502 or § 24-5-101 et seq.; and

(5) Contributes to the members' deposit account a sum of money equal to the amount that would have been contributed during the term of military service allowable, based upon the biweekly earnings of the member at the time the member first reinstates membership in the system after completing the period of active military service times a rate equal to the sum of the contribution rates for both the member and the employer at the time the membership was first reinstated after completion of the active military service.

(b)(1) Interest shall be paid at the rate of six percent (6%) per year from December 31, 1987, or six (6) months after the end of the month in which the member first has ten (10) years of creditable service, whichever is later.

(2) In no event may payments be extended beyond three (3) years from the date of application.

(3) It is further required that all payments must be completed before this military service time can be used to compute annuity benefits at time of retirement.

(c)(1) This section shall be supplemental to any other laws relating to the members of the system. Nothing in this section shall be construed to repeal or modify any existing provisions of this system's laws providing for creditable service in the system for military service, nor to diminish the right of any member of this system to obtain creditable service in the system for military service under existing laws.

(2)(A) In no event shall any member of this system be entitled to receive in excess of five (5) years of creditable service for military service rendered by the member.

(B) No member shall be eligible for creditable service in more than one (1) state-supported retirement system.

**History.** Acts 1987, No. 455, §§ 1, 2. 14-5-118, and 24-5-204 may not apply to  
**A.C.R.C.** References to "this chapter" in § § 24-5-101 — 24-5-109, 24-5-112 — this section which was enacted subsequently.

## **24-5-124. Minimum monthly benefit.**

All persons who are now vested or who hereafter vest under the Arkansas Public Employees' Retirement System or the Arkansas State Highway Employees' Retirement System shall be entitled to a minimum monthly benefit of one hundred fifty dollars (\$150).

**History.** Acts 1989, No. 547, § 1.  
**A.C.R.C. Notes.** Acts 1989, No. 547, § 2, provided: "All persons who on the effective date of this Act receive benefits under the Public Employees Retirement System or the State Highway Employees Retirement System, and whose monthly benefits are less than one hundred fifty dollars (\$150) per month, shall have their monthly benefits increased to one hundred and fifty dollars (\$150) per month effective with the first benefit payment payable after the effective date of this Act."  
 References to "this chapter" in § § 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.



**Publisher's Notes.** Acts 1989, No. 547, § 1, is also codified as § 24-4-611.

### **24-5-125. Eligibility to receive increase in benefits.**

(a)(1) In order to help offset the costs of health insurance and health care, any individual who is receiving benefits from the Arkansas State Highway Employees' Retirement System prior to, on, or subsequent to July 1, 1999, shall have added to his or her annuity as determined pursuant to § 24-5-115 no less than the sum of one hundred twenty-five dollars (\$125) per month, provided:

(A) The Board of Trustees of the Arkansas State Highway Employees' Retirement System may elect and is granted the authority to increase that additional monthly sum to all such eligible individuals in an amount determined by the board as necessary to help offset the ever-escalating costs of health insurance and health care; and

(B) Such additional monthly sum shall not exceed two hundred fifty dollars (\$250) per month.

(2) No benefit enhancement provided by this section shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) The board, in its discretion, may prorate the benefits provided under this section for all individuals retiring after June 30, 1999, if the individual is also eligible for an additional monthly benefit as a result of credited service under one (1) or more of the other reciprocal systems, as such systems are enumerated in § 24-2-401.

(c) Nothing contained in this section shall require the system to pay any portion of the benefits provided for in this section.

**History.** Acts 1991, No. 245, §§ 1-3; 1999, No. 311, § 1; 1999, No. 1066, § 7; 1999, No. 1325, § 8.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

Pursuant to § 1-2-207, the amendment by Acts 1999, No. 311, is deemed to be superseded by the amendment by Acts 1999, Nos. 1066 and 1325. Acts 1999, No. 311, amended this section to read as follows:

"(a) In order to help offset the costs of health insurance and health care, any individual who is receiving benefits from the Arkansas State Highway Employees' Retirement System prior to, on, or subsequent to July 1, 1999, shall have added to his or her annuity as determined pursuant to § 24-5-115 no less than the sum of one hundred twenty-five dollars (\$125)

per month, provided, the board may elect and is granted the authority to increase that additional monthly sum to all such individuals in an amount determined by the board as necessary to help offset the ever escalating costs of health insurance and health care; provided; further, such additional monthly sum shall not exceed two hundred-fifty dollars (\$250) per month. No benefit enhancement provided by this section shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

"(b)(1) If an individual is also receiving benefits as a result of credited service under one (1) or more of the other reciprocal systems as such systems are enumerated in § 24-2-401, that individual shall receive a pro rata portion of the amount set forth in subsection (a) of this section from the system.

"(2) That pro rata portion shall be determined by dividing the years of creditable service with the Arkansas State Highway and Transportation Department by the member's or deceased member's total years of creditable service with all reciprocal systems, provided the individual receiving such benefits shall receive the additional amounts set out in subsection (a) of this section in total from such

systems if the member or deceased member was employed at least five (5) years in each of the reciprocal systems."

**Amendments.** The 1999 amendment by No. 311 rewrote this section.

The 1999 amendment by No. 1066 added (c).

The 1999 amendment by No. 1325 rewrote (a) and (b).

### **24-5-126. Increase in benefits.**

(a) Effective July 1, 1991, the monthly retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees' Retirement System who are entitled to receive an annuity for July 1991 shall be increased by four percent (4%) above the annuity such retiree or beneficiary received for June 1991.

(b) The increase in benefits as provided in this section shall be added to the base annuity for the purpose of computing the annual postretirement increase as provided in § 24-5-119(a) for the benefit redetermination July 1, 1991, and for all years thereafter.

**History.** Acts 1991, No. 380, § 3.

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

### **24-5-127. Creditable service.**

(a) Any employee of the Arkansas State Highway and Transportation Department who is a member of the Arkansas State Highway Employees' Retirement System and who has served as a member of the Arkansas State Highway Commission shall receive partial credit, equal to forty percent (40%) of the time the member served as a member of the Arkansas State Highway Commission, as creditable service.

(b) For the purpose of calculating the member's annuity, the portion of creditable service attributed to serving on the commission shall not be considered when determining retirement eligibility, nor shall it be considered when calculating the annuity, but it is to be considered only toward vesting in the system.

**History.** Acts 1993, No. 359, § 1.

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

### **24-5-128. Increase in monthly retirement benefit — 1993.**

(a) Effective July 1, 1993, the monthly retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees' Retirement System who are entitled to receive an annuity for July 1993 shall be increased by two and nine-tenths percent (2.9%) above the annuity such retiree or beneficiary received for June 1993.

(b) The increase in benefits as provided in this section shall be added to the base annuity for the purpose of computing the annual postretirement increase as provided in § 24-5-119(a) for the benefit redetermination July 1, 1993, and for all years thereafter.

**History.** Acts 1993, No. 929, § 1.

24-5-118, and 24-5-204 may not apply to

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

this section which was enacted subsequently.

#### **24-5-129. Increase in monthly retirement benefit — Acts 1997, No. 349.**

(a) Effective July 1, 1997, the monthly retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees' Retirement System who are entitled to receive an annuity for July 1997 shall be increased by two and two-tenths percent (2.2%) above the annuity such retiree or beneficiary received for June 1997.

(b) The increase in benefits as provided in this section shall be added to the annuity for the purpose of computing the annual postretirement increase as provided in § 24-5-119(a) for the benefit redetermination July 1, 1997.

**History.** Acts 1997, No. 349, § 2.

24-5-118, and 24-5-204 may not apply to

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

this section which was enacted subsequently.

#### **24-5-130. Increase in monthly retirement benefit — Acts 1997, No. 386.**

(a) Effective July 1, 1997, the monthly retirement benefit payable to the retirees and beneficiaries of the Arkansas State Highway Employees' Retirement System who are entitled to receive an annuity for July 1997 shall be increased by two percent (2%) above the annuity such retiree or beneficiary received for June 1997.

(b) The increase in benefits as provided in this section shall be added to the annuity for the purpose of computing the annual postretirement increase as provided in § 24-5-119(a) for the benefit redetermination July 1, 1997.

**History.** Acts 1997, No. 386, § 2.

24-5-118, and 24-5-204 may not apply to

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

this section which was enacted subsequently.

#### **24-5-131. Limitation on benefit enhancement — Acts 1997, Nos. 1067 and 1089.**

(a) No benefit enhancement provided for by §§ 24-5-116 and 24-5-118 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by §§ 24-5-116 and 24-5-118 shall be implemented by any publicly supported system which has



unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 1089, § 2.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-5-101 — 24-5-109, 24-5-112 — 24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

Essential language from former § 24-5-132 was combined with this section pursuant to § 29-20-138.

## 24-5-132. [Repealed.]

**Publisher’s Notes.** This section, concerning limitation on benefit enhancement of Acts 1997, No. 1067, was repealed

pursuant to § 29-20-138. The section was derived from Acts 1997, No. 1067, § 2. For present law, see § 24-5-131.

## 24-5-133. Early participation.

The Board of Trustees of the Arkansas State Highway Employees’ Retirement System shall present to the Joint Committee on Public Retirement and Social Security Programs information concerning the statutory authority and actuarial appropriateness of proposed board actions to establish or revise any benefit or a provision of a deferred retirement option plan.

**History.** Acts 1999, No. 1325, § 7.

**A.C.R.C.** References to “this chapter” in §§ 24-5-101 — 24-5-109, 24-5-112 —

24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

## SUBCHAPTER 2 — DEFERRED RETIREMENT OPTION PLAN

### SECTION.

24-5-201. Establishment.

24-5-202. Requirements.

24-5-203. Limitation on benefit enhancement.

### SECTION.

24-5-204. Rules and regulations — Applicability.

**Effective Dates.** Acts 1997, No. 1073, § 7: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the retention of experienced employees, especially in skilled labor positions and highway engineers, is beneficial to the Arkansas highway system and with the hiring of employees at younger ages, more qualified and experienced employees are reaching retirement eligibility earlier in their careers and that immediate passage of the act is essential to the efficient administration of

state government and implementation of the provisions of this act is necessary to begin at the start of the State’s fiscal year. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997.”

Acts 1999, No. 1325, § 14: July 1, 1999. Emergency clause provided: “It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in

the State Highway Employees' Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective,

and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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### 24-5-201. Establishment.

(a) The Board of Trustees of the Arkansas State Highway Employees' Retirement System may establish a deferred retirement option plan for its members so that, in lieu of terminating employment, they might continue with employment and accept a service retirement benefit pursuant to § 24-5-101 et seq. The board shall be authorized to promulgate rules and regulations for a plan to provide this deferred retirement option to its members as is appropriate to maintain a goal of zero cost to the system.

(b) The board shall be authorized to promulgate rules and regulations for a plan to provide this deferred retirement option to its members as is appropriate to maintain a goal of zero cost to the system.

**History.** Acts 1997, No. 1073, § 1.

**A.C.R.C.** References to "this chapter" in §§ 24-5-101 — 24-5-109, 24-5-112 —

24-5-118, and 24-5-204 may not apply to this section which was enacted subsequently.

### 24-5-202. Requirements.

(a) In the event a plan is established, the Arkansas State Highway Employees' Deferred Retirement Option Plan shall have, as a minimum, provisions which require:

(1) The Board of Trustees of the Arkansas State Highway Employees' Retirement System to approve of the person's participation in the plan;

(2) The member's deferred retirement benefits to be deposited into an account in which shall be accumulated the member's deferred option contributions, plus interest;

(3) The rate of interest to be credited to each member's deferred option account shall be an amount to be determined by the board and to be paid on the mean balance in the account for the fiscal year;

(4) That when a member begins participation in the deferred retirement option, the member's contributions and the state's contributions, as employer, to the Arkansas State Highway Employees' Retirement System shall cease;

(5) That a member's selection of the deferred retirement option, the time of the retirement deferral, and the selection of the retirement annuity are irrevocable; and

(6) That the duration of participation in the deferred retirement shall not exceed five (5) years.

(b) The board may determine any other provisions of the plan, such as the amount of credited service to participate, the method of collections for participants of the plan, and the payment methods in the event of the death of a participant.

**History.** Acts 1997, No. 1073, § 2.

24-5-118, and 24-5-204 may not apply to

**A.C.R.C.** References to “this chapter”  
in §§ 24-5-101 — 24-5-109, 24-5-112 —

this section which was enacted subsequently.

### **24-5-203. Limitation on benefit enhancement.**

(a) No benefit enhancement provided by §§ 24-5-201 and 24-5-202 shall be implemented if it would cause the publicly supported retirement system’s unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided by §§ 24-5-201 and 24-5-202 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 1073, § 3.

24-5-118, and 24-5-204 may not apply to

**A.C.R.C.** References to “this chapter”  
in §§ 24-5-101 — 24-5-109, 24-5-112 —

this section which was enacted subsequently.

### **24-5-204. Rules and regulations — Applicability.**

(a) The Board of Trustees of the Arkansas State Highway Employees’ Retirement System, in consultation with its actuary, may promulgate rules and regulations to lower the required years of service for entry into the Arkansas State Highway Employees’ Deferred Retirement Option Plan authorized by this subchapter, subject to any early participation reduction. The reduction will be computed in a manner that is both equitable and actuarially appropriate for the system.

(b) This section shall apply only to entry into the plan by a person who has twenty-eight (28) or twenty-nine (29) years of creditable service and whose eligibility for retirement is based on regulations adopted pursuant to § 24-5-112(c).

**History.** Acts 1999, No. 1325, § 6.

## **CHAPTER 6**

## **STATE POLICE RETIREMENT**

### **SUBCHAPTER**

1. GENERAL PROVISIONS.
2. STATE POLICE RETIREMENT SYSTEM.
3. DEFERRED OPTION PLAN.
4. TIER TWO BENEFIT PLAN.



RESEARCH REFERENCES

Am. Jur. 60A Am. Jur. 2d, Pensions,  
§§ 1618, 1633.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.  
24-6-101. System for payment of disability and retirement benefits and medical fees — Rules and regulations — Fund.

SECTION.  
24-6-102. Early retirement incentives.

**Cross References.** State police retired employees, health insurance, § 12-8-210.  
**Effective Dates.** Acts 1945, No. 231, § 28: Mar. 20, 1945. Emergency clause provided: “It having been ascertained and determined by the General Assembly that on account of the widespread disregard for the traffic laws of the state and the rules and regulations governing the same as a result of the establishment of many large war plants and military posts in the State of Arkansas, together with the enormous increase of traffic caused by the war, which has created conditions at and around such war plants and military posts creating a condition upon the highways of this state which, in order to efficiently operate the Department of Arkansas State Police, make it necessary that the same be departmentalized and organized in such manner that the personnel of said department can be assigned and directed in a more efficient manner and because of the hazards to life and limb as a result of

the disregard for the laws making such conditions dangerous to the health, peace, and safety of the people of Arkansas an emergency is hereby declared to exist and this act being necessary for the preservation of the peace, health, and safety of the citizens of this state and for the traveling public, this act shall take effect and be in full force after its passage and approval.”  
Acts 1987, No. 187, § 11: Mar. 12, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that a reduction in work force caused by budgetary constraints may be avoided by offering early retirement incentives; that to offer early retirement incentives and to avoid unnecessary layoffs this Act should take effect immediately upon its passage. Therefore, an emergency is declared and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

24-6-101. System for payment of disability and retirement benefits and medical fees — Rules and regulations — Fund.

- (a)(1) The Arkansas State Police Commission is authorized and empowered to create and administer a system of paying disability, pension, and retirement pay funds to members of the Department of Arkansas State Police and their dependents and survivors.
- (2) The commission shall have the authority and power, whenever it deems best, to pay medical expenses, including hospitalization fees and charges, of state police injured while in the performance of their official duties.

(3)(A) The commission shall have the authority and power to purchase and maintain in force group life, accident, and disability insurance upon the lives and members of the department upon such terms and conditions as it may deem necessary and proper.

(B) However, the purchasing and maintaining of such insurance shall be discretionary, and not mandatory, on the part of the commission.

(b) The commission is authorized and empowered to:

(1) Promulgate and enforce all rules and regulations necessary to create and administer a system of paying medical and hospitalization fees, disability benefits, pensions, and retirement pay to members of the department;

(2) Establish and prescribe the eligibility of members of the police force and their dependents and survivors in and to the benefits of the funds; and

(3) Do any and all things necessary to carry out the provisions of this act.

(c)(1) There is created and established the State Police Retirement Fund, to which shall be credited any and all appropriations made by the General Assembly for the purposes outlined in this section.

(2) Any unexpended balance of the appropriation made for the first fiscal year of any biennial period may be used for a like purpose during the second fiscal year.

(3) Vouchers drawn upon and payable from the funds shall be drawn and paid in the manner provided by law for payment of obligations of the department.

**History.** Acts 1945, No. 231, §§ 22-24; 107, 12-8-110 — 12-8-112, 12-8-114 — A.S.A. 1947, §§ 42-422 — 42-424. 12-8-116, 12-8-118, 12-8-119, 12-8-201 —

**Meaning of "this act".** Acts 1945, No. 12-8-205, 12-8-209, 12-8-213 and 12-12-231, is codified as §§ 12-8-101 — 12-8-103.

## **24-6-102. Early retirement incentives.**

(a) In addition to the provisions of § 24-6-214:

(1)(A) An employee who is an active member of the State Police Retirement System on March 12, 1987, and who is vested for a full age and service annuity and who has credit in the system for three (3) consecutive actual years of service with the Department of Arkansas State Police immediately prior to his retirement date, may choose two (2) of the retirement incentives from subdivisions (a)(1)(B)-(E) of this section, provided he retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment with the department or in which the state is the employer.

(B)(i) In addition to his regular annuity, the system will pay the cost of the member's health insurance which he is eligible to continue as a retirant with the Arkansas State Police Employee Health Plan.

(ii) The payment is to be for the retirant's coverage only and to be paid from the date of his retirement until the retirant's death.

(C) For the purpose of computing the member's annuity, his highest annual salary will be substituted for his final average compensation.

(D) For the purpose of computing the member's annuity, he will receive an additional annuity equal to ten percent (10%) of his computed annuity.

(E)(i) A member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the employer's accumulation account of the system.

(2)(A) An employee who is an active member of the system on March 12, 1987, and who has credit in the system for three (3) consecutive actual years of service with the department immediately prior to his retirement date and who has credit for not less than ten (10) actual years of service and has attained age forty-eight (48) or credit for not less than eighteen (18) actual years of service regardless of age, may choose two (2) of the retirement incentives from subdivisions (a)(2)(B)-(F) of this section, provided he retires during the period beginning with March 12, 1987, through January 1, 1988, inclusive. However, an employee who participates in this retirement incentive program is not eligible to accept further employment with the department or in which the state is the employer.

(B)(i) The system will pay the cost of the member's health insurance which he is eligible to continue as a retirant with the Arkansas State Police Employee Health Plan.

(ii) This payment is to be for the retirant's coverage only and is to be paid from the date of his retirement until the retirant has attained age sixty-five (65).

(C) For the purpose of computing the member's annuity, his highest annual salary will be substituted for his final average compensation.

(D) If the member is eligible for an early reduced annuity as provided in § 24-6-214(b)(1) and he is within two (2) years of his full annuity age, or if he has at least ten (10) years of credit and is within two (2) years of his full annuity age, then his annuity will not be reduced because of early retirement.

(E) If a member has attained his full annuity age as provided by § 24-6-214(b)(2) and is within two (2) years of attaining the service requirement for a full annuity, then his annuity will not be reduced because of early retirement.

(F)(i) A member may receive a retirement bonus which is a lump sum payment equal to ten percent (10%) of the final annual salary of the employee not to exceed five thousand dollars (\$5,000).

(ii) The retirement bonus shall be paid from the employer's accumulation account of the system.



(3)(A) For those state police officers who retire pursuant to the provisions of this section, the amount paid by the system as the cost of the employee's health and basic life insurance shall not exceed the amount of the employer's contribution for the coverage on the date of the employee's retirement and may be reduced at the time the employee qualifies under medicare or medicaid programs.

(B) Any future increase in the cost of this coverage shall be borne by the employee and not by the system from which the employee retired.

(b) No position being vacated as a result of an employee retiring pursuant to the provisions of this section shall be filled without the written approval of the Governor or the Chief Fiscal Officer of the State.

**History.** Acts 1987, No. 187, §§ 2, 8, 9.

**Publisher's Notes.** Acts 1987 (1st Ex. Sess.), No. 17, § 3, provided that the intent of the act was to give fair and equal

treatment to all employees and all elected officials under the Early Retirement Incentive Act.

## SUBCHAPTER 2 — STATE POLICE RETIREMENT SYSTEM

### SECTION.

- 24-6-201. Definitions.
- 24-6-202. Penalty.
- 24-6-203. Creation.
- 24-6-204. Board of trustees.
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- 24-6-206. State Police Retirement Fund — Accounts.
- 24-6-207. Membership.
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- 24-6-210. Credited service.
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- upon death of retirant.
- 24-6-217. Benefits — Survivor's pension upon death of member.
- 24-6-218. Benefits — Survivors' benefits upon death of officer killed in line of duty while not member of system.
- 24-6-219. Benefits — Redetermination of benefits.
- 24-6-220. Benefits — Increased benefits generally.
- 24-6-221. Benefits — Increased benefits for persons retiring by June 1, 1982, or by July 1, 1982.
- 24-6-222. Refund of contributions.
- 24-6-223. Interest in fund not transferable or subject to legal process.
- 24-6-224. Increase in benefits.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-6-201 — 24-6-223 may not apply to § 24-6-224 which was enacted subsequently.

**Cross References.** Pension for retired policemen receiving less than one-half salary, § 24-11-424.

**Effective Dates.** Acts 1951, No. 311, § 11: approved Mar. 19, 1951. Emergency clause provided: "It has been found and is hereby declared by the General Assembly:

(1) that the establishment of a retirement system for officers of the Department of Arkansas State Police will have the effect of providing a greater incentive for qualified young men to enter State police work, and thereby increase the effectiveness of the Department; (2) that greater effectiveness is necessary to reduce the incidence of traffic accidents which have been increasing at an alarming rate and have been resulting in injuries and deaths to

persons and damages to property; and (3) that the provisions of this Act will, in part, alleviate the foregoing conditions. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage."

Acts 1967, No. 309, § 4: became law without Governor's signature, Mar. 13, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the widows and surviving children of certain uniformed employees of the Arkansas State Police, who were killed in the line of duty, have been denied survivors' benefits under the State Police Retirement System by virtue of technicalities in said System, and it is determined by the General Assembly that adequate financing of said System is provided by law to pay such benefits, and the immediate passage of this Act is necessary in order that said widows and surviving children may receive such benefits as authorized by law without unnecessary delay. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 646, § 3: May 27, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 144 of 1969 which increases the employer contribution to the State Police Retirement System beginning July 1, 1969, did not contain an emergency clause and therefore will not become effective until ninety (90) days after adjournment of the 1969 Regular Session of the General Assembly; that due to the extension of the Regular Session as authorized in the Constitution the provisions of Act 144 will not be effective until well after July 1; that it is vitally important to the proper and efficient operation of the State Police Retirement System that the increase in contributions take effect on July 1, 1969 and that the provisions of this Act are immediately necessary to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 647, § 5: May 27, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 101 of 1969 which provides that effective July 1, 1969 the Executive Director and the staff of the Arkansas State Employees Retirement System shall be the Executive Secretary and staff of the Arkansas State Police Retirement System, did not contain an emergency clause and therefore will not under Amendment No. 7 to the Constitution of Arkansas become effective until ninety (90) days after adjournment of the regular session of the Sixty-Seventh General Assembly; that due to the volume of business the regular session of the Sixty-Seventh General Assembly has been extended as authorized in the Constitution and will not be adjourned in time for acts not having an emergency clause to take effect before July 1; and that it is essential to the proper and efficient operation of the State Police Retirement System and the State Employees Retirement System that the provisions of this Act take effect on or before July 1, 1969. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1971, No. 130, § 4: Feb. 19, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present provisions of the State Police Retirement System relating to the pension of a widow of a member of the system is not entirely clear regarding the duration of the pension to which the widow is entitled; that it is the intention of the General Assembly that the widow of any member who died or dies on or after January 1, 1956, shall be entitled to the pension provided for in subsection F of Section 5 of Act 311 of 1951, as amended, for her lifetime or until she remarries; that this Act is immediately necessary to clarify such provisions of the State Police Retirement System and to assure that the surviving widow of each member who died or dies on or after January 1, 1956, will receive the pension provided by law until such widow remarries or dies. Therefore, an emergency is hereby declared to exist and this Act being necessary for immediate preservation of the public peace, health and safety shall be in full force and

effect from and after its passage and approval.”

Acts 1971, No. 309, § 8: July 1, 1971.

Acts 1974 (Ex. Sess.), No. 93, § 10: July 23, 1974. Emergency clause provided: “It is hereby found and determined by the General Assembly that the unprecedented increase in the cost of living has resulted in a particular hardship to persons living on a fixed retirement income in the State of Arkansas; that it is essential to the health and well-being of persons retired under the Public Employees Retirement System that the benefits received by them be increased immediately to offset this unusual cost of living increase and that this Act should be given effect immediately in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1977, No. 460, § 5: Mar. 17, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State Police Retirement law does not currently contain any provision providing for vesting of interest of members in the System; that the laws relating to other public supported retirement systems in the State do provide for vesting in interest of members after a prescribed period of service; that this Act is designed to give members of the State Police Retirement System who have ten years or more of credited service and who cease to be employed in a position covered by the System prior to age fifty (50), the option to either withdraw the accumulated employee contributions to the System or to leave such contributions in the System and receive pension benefits upon meeting the age requirements of the System; that this Act should be given effect at the earliest possible date to grant such options to members of the System. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1981, No. 483, § 5: July 1, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that benefits now being paid to

retired members of the State Police Retirement System are not consistent with benefits being paid to retired members of other State supported retirement plans and, therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in force and effect on and after July 1, 1981.”

Acts 1981, No. 855, § 4: Mar. 28, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that the expenses incurred in the administration of the Arkansas State Police Retirement System should be paid from the ‘State Police Retirement Fund’ instead of the operating account of the State Police Department. Therefore, an emergency is declared to exist, and the Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 555, § 3: July 1, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State Police Retirement System laws need to be amended to provide an increase of up to ten percent (10%) for those members and beneficiaries who retired before July 1, 1982. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985.”

Acts 1987, No. 718, § 3: July 1, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State Police Retirement laws need to be amended to provide for increased benefit for those members and beneficiaries who retired before July 1, 1982; that the effectiveness of this Act on July 1, 1987 is essential; that due to the extensions of the Regular Session, the delay in the effective date of this Act beyond July 1, 1987 could work irreparable harm on the retirees and beneficiaries covered hereunder. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on July 1, 1987.”

Acts 1989, No. 529, § 6 [7]: Mar. 14, 1989. Emergency clause provided: “It is



hereby found and determined by the General Assembly that current law terminates pension benefits for surviving children of Arkansas State Police officers based solely on age; that it is in the best interests of the state to encourage such children to pursue their educational needs beyond the secondary level; that by the continuation of pension benefits until age twenty-two (22) for surviving children enrolled in institutions of higher education, a greater percentage of those children who have suffered a loss will consider this pursuit; and that this is an immediate need for those surviving children which requires the immediate enactment of this legislation. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 225, § 4: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that benefits provided to members of the Arkansas State Police Retirement System are inadequate and that an increase should be provided as soon as practicable in order to provide adequate benefits; therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 380, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System, the Arkansas State Police Retirement System and the Arkansas State Highway Employees Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 387, § 6: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-

Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the State Police Retirement System and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 432, § 7: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that benefits provided to retirants and beneficiaries under the Arkansas Public Employees Retirement System and the Arkansas State Police Retirement System are inadequate and that an increase should be provided as soon as practicable in order to avoid an undue hardship to many such retirants and beneficiaries. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991."

Acts 1997, No. 130, § 5: July 1, 1997. Emergency clause provided: "Emergency. It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the redetermination of benefits provision of the Arkansas State Police Retirement System needs clarification and that the effective administration of the system will be aided by implementing these changes at the beginning of the State's fiscal year. Therefore, in order to promote sound administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which

are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1053, § 28: July 1, 1998.

Acts 1997, No. 1071, § 7: Apr. 3, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the current funding provisions of the State Police Retirement System are inadequate and that the benefit provisions of the system must be modified to restore the financial security of the system; that this act accomplishes those purposes; that this act should go into effect as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the pub-

lic peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 387, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that historically the State Police Retirement System has recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect of July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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## 24-6-201. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Accumulated contributions" means the sum of all amounts deducted from the salaries of a member and credited to his individual account in the members' deposit account, together with regular interest credited thereon;

(2) "Beneficiary" means any person, except a retirant, who is in receipt of, or who is entitled to receive, a pension or other benefit payable from funds of the system;

(3) "Board" means the Board of Trustees of the State Police Retirement System;

(4) "Credited service" means the service credited a member by the board to the extent provided in this subchapter;

(5) "Department" means the Department of Arkansas State Police;

(6) "Director" means the Director of the Department of Arkansas State Police;

(7) "Final average salary" means the average of the annual salaries paid a member for the three (3) years of credited service rendered by him immediately preceding his last termination of employment with the department, but the final average salary shall not exceed that of the highest permanent rank;

(8) “Member” means any state police officer who is included in the membership of the system;

(9)(A) “Pension” means an annual amount payable from funds of the system throughout the life of a person.

(B) All pensions shall be paid in equal monthly installments;

(10) “Pension reserve” means the present value of a pension computed upon the basis of such mortality and other tables of experience, and regular interest, as the board, from time to time, may adopt;

(11) “Regular interest” means such rates of interest per annum, compounded annually, as the board, from time to time, shall prescribe;

(12) “Retirant” means any member who retires with a pension payable from funds of the system;

(13) “Retirement” means a member’s withdrawal from the employ of the department with a pension payable from funds of the system;

(14)(A) “Salary” means the compensation paid a member for service rendered by him as a state police officer.

(B) In no case shall the term “salary” include reimbursement for lodging, meals, or travel expenses;

(15) “Service” means service rendered to the department by a state police officer and shall include previous service, if any, rendered by him as an Arkansas state ranger;

(16)(A) “State police officer” means any employee of the Department of Arkansas State Police who holds the rank of state trooper or higher rank, and it shall include the director.

(B) The term “state police officer” shall not include any civilian employee of the department, nor shall it include any person who is temporarily employed as a state trooper for an emergency.

(C) In any case of doubt as to who is a “state police officer”, the board shall decide the question; and

(17) “System” means the State Police Retirement System.

**History.** Acts 1951, No. 311, § 1; 1959, No. 484, § 1; 1973, No. 441, § 1; A.S.A. 1947, § 42-451.

## **24-6-202. Penalty.**

(a) Any person who knowingly makes any false statements or who falsifies or permits to be falsified any records of the State Police Retirement System or Department of Arkansas State Police, in an attempt to defraud the system as the result of that act, shall be guilty of a misdemeanor.

(b) Upon conviction by a court, that person shall be punished by a fine of not less than one hundred dollars (\$100) or a maximum of six (6) months in jail, or both.

**History.** Acts 1951, No. 311, § 8; 1959, No. 484, § 8; A.S.A. 1947, § 42-458.



**RESEARCH REFERENCES**

**UALR L.J.** Legislative Survey, Business Law, 4 UALR L.J. 579.

**24-6-203. Creation.**

The State Police Retirement System is created and established in conformance with this subchapter.

**History.** Acts 1951, No. 311, § 1; 1959, No. 484, § 1; A.S.A. 1947, § 42-451.

**CASE NOTES**

**Cited:** Board of Trustees v. Halsell, 271 Ark. 815, 610 S.W.2d 881 (1981), cert. denied, 454 U.S. 819, 102 S. Ct. 99, 70 L. Ed. 2d 89 (1981).

**24-6-204. Board of trustees.**

(a)(1) The Board of Trustees of the State Police Retirement System is created and established.

(2)(A) It shall consist of seven (7) trustees, as follows:

(i) The Chairman of the Arkansas State Police Commission, who shall serve as trustee by virtue of his position;

(ii) The Director of the Department of Arkansas State Police, who shall serve as trustee by virtue of his position;

(iii) Four (4) members of the State Police Retirement System to be elected by the members of the system with at least two (2) such member trustees holding the rank of trooper, trooper first class or corporal and at least one (1) such member trustee holding a rank higher than the rank of corporal; and

(iv) One (1) retired member of the system to be elected by the members of the Retired Members Association.

(B) The elections of member trustees shall be held under such rules and regulations as the board shall from time to time adopt to govern such elections.

(C) The regular term of office of a member trustee shall be three (3) years.

(b)(1) In the event any trustee provided for in subdivisions (a)(2)(A)(iii) and (iv) of this section:

(A) Ceases to be a state police officer; or

(B) Fails to attend scheduled meetings of the board for three (3) consecutive meetings unless, in each case, he is excused by the remaining trustees attending the meetings, the board shall, by resolution, declare his office of trustee vacated as of the date of adoption of the resolution.

(2) If a vacancy occurs in the office of trustee, the vacancy shall be filled, for the unexpired term, in the same manner as the office was previously filled.

(c)(1) The administration, management, and control of the system shall be vested in the board.

(2)(A) The executive director and administrative staff of the Arkansas Public Employees' Retirement System shall be the executive secretary and the administrative staff of the State Police Retirement System.

(B) All administrative records of the Arkansas State Police Retirement System shall be maintained within the administrative offices of the Arkansas Public Employees' Retirement System.

(3)(A) The executive secretary shall be the disbursing agent of all appropriations made by the General Assembly out of the State Police Retirement Fund.

(B) He shall furnish and file with the Auditor of State bond with a corporate guaranty or indemnity surety thereon in the penal sum of two thousand dollars (\$2,000), the premium on which shall be paid from appropriations made available to the Department of Arkansas State Police.

(d) The Chairman of the Arkansas State Police Commission shall be the chairman of the board.

(e) The Treasurer of State shall serve as treasurer of the system and shall be the legal custodian of its funds.

(f) The Attorney General shall serve as legal advisor to the board.

(g)(1) The board shall hold meetings regularly, at least one (1) in each quarter year, and shall designate the time and place thereof.

(2) Special meetings may be held in accordance with such rules and regulations as the board shall adopt.

(3) Four (4) trustees shall constitute a quorum at any meeting of the board, and at least four (4) concurring votes shall be necessary for a decision by the board at any of its meetings.

(4) The board shall adopt its own rules or procedures and shall keep a record of its proceedings, which shall be open to public inspection.

(h) In addition to such other duties as are imposed upon the board by this subchapter, the board shall:

(1) Make all rules and regulations from time to time as it shall deem necessary in the transaction of its business and in administering the system;

(2) Provide for the administrative direction and control of the executive secretary in the performance of his duties as executive secretary of the system;

(3) Provide for an actuarial valuation of the assets and liabilities of the system or the retirement reserve account at least once in each four-year period from and after December 31, 1958;

(4) Adopt such mortality and other tables of experience, and rates of regular interest, as shall be required for the proper operation of the system;

(5) Exercise discretionary power and authority in the investments and disbursements of the funds of the system, subject to the provisions of this subchapter;

(6) Perform the duties of trustee without additional compensation therefor; however, trustees may receive expense reimbursement in accordance with § 25-16-901 et seq.; and

(7) Do any and all things necessary for the proper administration of the system and for carrying out and making effective the provisions of this subchapter.

**History.** Acts 1951, No. 311, §§ 2, 9; 1959, No. 484, § 2; 1969, No. 647, § 1; A.S.A. 1947, §§ 42-452, 42-452.1, 42-459; Acts 1989, No. 23, § 1; 1989, No. 529, § 4[5]; 1997, No. 250, § 230.

**A.C.R.C. Notes.** The operation of subdivision (c)(3) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subdivision may again become effective upon cessation of coverage under that program. See § 21-2-703.

Subsection (a) of this section was amended by Acts 1989, Nos. 23 and 529. Acts 1989, No. 529 has been codified as it was deemed to include the amendments made by Acts 1989, No. 23.

**Publisher's Notes.** Acts 1969, No. 647, § 2, provided that the Board of Trustees of

the State Police Retirement System would continue to exercise the powers, functions, and duties which it had theretofore exercised and that nothing in subdivision (c)(2) of this section would be construed to diminish or otherwise alter the powers, functions, and duties of the board.

The terms of the three member trustees of the Board of Trustees of the State Police Retirement System are arranged so that one term expires on the fourteenth day of January of every year.

The reimbursement provision in subdivision (h)(6) of this section may be affected by § 25-16-901 et seq. concerning mileage reimbursement for members of state boards and commissions.

**Amendments.** The 1997 amendment rewrote (h)(6).

**Cross References.** Investments, § 24-3-401 et seq.

## 24-6-205. Correction of errors.

(a) Should any change or error in the records of the State Police Retirement System or the Department of Arkansas State Police result in any person's receiving from the system more or less than he would have been entitled to receive had the records been correct, the Board of Trustees of the State Police Retirement System shall correct the error and, as far as is practicable, shall adjust the payment in such manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

(b) The board shall have the right to recover any overpayment any person may have received from funds of the system.

**History.** Acts 1951, No. 311, § 8; 1959, No. 484, § 8; A.S.A. 1947, § 42-458.

## RESEARCH REFERENCES

UALR L.J. Legislative Survey, Business Law, 4 UALR L.J. 579.

## 24-6-206. State Police Retirement Fund — Accounts.

(a)(1) There is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a fund to be



known as the State Police Retirement Fund, which shall consist of the trust funds designated by law.

(2) This fund shall be used for payment of personal services, operating expenses, investments, benefits, refunds, and for such other purposes as may be authorized by law.

(b) The accounts of the State Police Retirement System shall be the members' deposit account, employer accumulation account, retirement reserve account, and income account, as follows:

(1) MEMBERS' DEPOSIT ACCOUNT.

(A) The members' deposit account shall be the account in which members' contributions shall be accumulated at regular interest and from which shall be made transfers and refunds of contributions or accumulated contributions, as provided in this subchapter.

(B) Upon the retirement of a member, his accumulated contributions standing to his credit in the members' deposit account shall be transferred to the retirement reserve account;

(2) EMPLOYER ACCUMULATION ACCOUNT.

(A)(ii) The employer accumulation account shall be the account in which shall be accumulated the contributions made by the State of Arkansas to the system.

(ii) Upon the retirement of a member, the difference between his pension reserve and his accumulated contributions standing to his credit in the members' deposit account shall be transferred from the employer accumulation account to the retirement reserve account.

(B)(i) If, at the end of any fiscal year, the sum of the balances in the employer accumulation account and the retirement reserve account is insufficient to equal an amount of ten (10) times the total of the pensions paid from the retirement reserve account during that fiscal year, the Board of Trustees of the State Police Retirement System shall certify to the Treasurer of State that a deficiency exists in the State Police Retirement Fund.

(ii) Upon receipt of that certification, the Treasurer of State shall transfer from the Department of Arkansas State Police Fund to the State Police Retirement Fund an amount equal to ten percent (10%) of the deficiency so certified. When transferred, the amount shall be credited to the employer accumulation account.

(C) All amounts credited to the State Police Retirement Fund in accordance with § 16-92-110 [repealed] shall be credited to the employer accumulation account;

(3) RETIREMENT RESERVE ACCOUNT.

(A) The retirement reserve account shall be the account from which all pensions provided for in this subchapter shall be paid.

(B) If a disability retirant returns to the employ of the Department of Arkansas State Police, his pension reserve at that time shall be transferred from the retirement reserve account to the members' deposit account and the employer accumulation account in the same proportion as the pension reserve was originally transferred to the retirement reserve account; and

(4) **INCOME ACCOUNT.**

(A) The income account shall be the account to which shall be credited all interest, dividends, and other income derived from investments of the system, all gifts and bequests received by the system, and all other moneys, the disposition of which is not specifically provided for in this subchapter.

(B) There shall be paid or transferred from the income account all amounts required to credit regular interest to the various accounts of the system except the income account.

(C) Whenever the board determines that the balance in the income account is more than sufficient to cover current charges to the account, the excess may be transferred by the board to any of the other accounts of the system to cover special needs of the accounts.

**History.** Acts 1951, No. 311, § 3; 1959, § 20, as amended by Acts 1995 (1st Ex. Sess.), No. 13, § 4.  
No. 484, § 3; 1981, No. 855, § 1; A.S.A. 1947, § 42-453.

**Publisher's Notes.** Former § 16-92-110 was repealed by Acts 1995, No. 1256, § 3-401 et seq.

**Cross References.** Investments, § 24-3-401 et seq.

## **24-6-207. Membership.**

(a) The Director of the Department of Arkansas State Police and all other state police officers who were state police officers March 19, 1951, and who continued as state police officers on or after March 19, 1951, shall become members of the State Police Retirement System.

(b) All persons who became, or become, state police officers after March 19, 1951, shall become members of the system.

(c) None of the other employees of the Department of Arkansas State Police shall be eligible to membership in the system, and the conferring of rank upon any such employee shall not, in itself, constitute eligibility to membership in the system.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; A.S.A. 1947, § 42-455.

## **24-6-208. Members' contributions.**

(a)(1)(A) The contributions of a member to the State Police Retirement System shall be nine and one-fourth percent (9.25%) of his salary.

(B) However, no member may be required to pay more than nine and one-fourth percent (9.25%) of the salary of the highest permanent rank in the Department of Arkansas State Police.

(2) The officers responsible for making up the payroll shall cause the contributions provided for in this section to be deducted from the salaries of each member on each and every payroll, for each and every payroll period, from the date of his entrance into the system to the date his membership terminates.

(3) When deducted, each of the amounts shall be paid into the State Police Retirement Fund and shall be credited to each member's individual account in the members' deposit account.

(4) The contributions provided for in this section shall be made notwithstanding that the minimum salary provided by law for any member shall be thereby changed.

(5) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(6) Payment of his salary less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered to the department by the member, except as to benefits provided by this subchapter.

(b) It is expressly guaranteed that all members' contributions shall be held in trust for the exclusive benefit of the individual members and that no part of the funds shall be used for any other purpose.

**History.** Acts 1951, No. 311, § 3; 1959, 1977, No. 460, § 3; A.S.A. 1947, §§ 42-No. 484, § 3; 1969, No. 646, § 1; 1973, No. 453, 42-453.1. 441, §§ 2, 3; 1974 (Ex. Sess.), No. 93, § 8;

**24-6-209. Employer's contribution.**

(a) The Department of Arkansas State Police, as employer, shall make contributions to the State Police Retirement System of twenty-two percent (22%) of active member payroll.

(b)(1) The Director of the Department of Finance and Administration, at the request of the Executive Secretary of the State Police Retirement System, is authorized and directed to make annual transfers on each June 30 to the State Police Retirement Fund from the remainder of insurance premium taxes enumerated in § 19-6-301(27) before they are transferred to General Revenues enumerated in § 19-6-201(19) the amounts of money necessary to amortize over a twenty-five-year period the unfunded liabilities for those members not covered by the provisions of § 24-6-401 et seq.

(2) These transfers are intended to cover the unfunded accrued actuarial liabilities of the State Police Retirement Fund existing on June 30, 1997, and shall not be used for the purpose of providing any benefit enhancements for the State Police Retirement System.

(3) Members of the Tier One State Police Retirement System shall not be entitled to any benefit enhancements from these transfers unless funds from sources other than insurance premium taxes are found to provide for the retirement benefit enhancements.

(4) The amount of the transfer shall be determined by computing the dollar amount required based on the actuarially determined employer rate in the most recent annual actuarial valuation and subtracting from that amount the statutory contribution amount specified in subsection (a) of this section, the court fees provided by Acts 1995, No. 1256, and the driver's license reinstatement fees provided by § 27-16-808.



(c)(1) The intent of this section is to provide for funding of any amounts of unfunded accrued actuarial liabilities of the Tier One State Police Retirement Fund existing on June 30, 1997.

(2) These transfers shall be limited in use solely for the purpose of paying those liabilities and nothing more.

(3) In the event the transfers under this section exceed eight hundred thousand dollars (\$800,000) per fiscal year, the Executive Secretary of the Arkansas State Police Retirement System shall notify the Joint Interim Committee on Public Retirement and Social Security Programs which shall then review the use of the funds and the benefit provisions of the systems and the actuarial reports on the retirement systems to ensure compliance with the intended purpose of the funds.

**History.** Acts 1951, No. 311, § 3; 1959, No. 484, § 3; 1969, No. 646, § 1; 1973, No. 441, § 2; 1974 (Ex. Sess.), No. 93, § 8; 1977, No. 460, § 3; A.S.A. 1947, §§ 42-453, 42-453.1; Acts 1997, No. 1071, § 3.

**Publisher's Notes.** Acts 1995, No. 1256, referred to in subdivision (b)(4) of this section is codified as §§ 5-65-115,

5-65-307, 14-20-102, 14-42-112, 16-10-133, 16-10-301 — 16-10-310, 16-14-105, 16-17-402, 16-17-705, 16-21-106, 16-21-113, 16-21-1103, 16-21-1503, 20-7-123, 20-18-502, 21-6-403, and 24-8-215.

**Amendments.** The 1997 amendment rewrote the section.

## 24-6-210. Credited service.

(a)(1) Any member who shall become separated from the employ of the Department of Arkansas State Police by reason of service in the armed forces of the United States shall have the service, not to exceed a total of five (5) years, credited him as department service, but only if he returns to the employ of the department within one hundred eighty (180) days from and after termination of the armed service required of him and if he returns to the members' deposit account the amount of his accumulated contributions withdrawn by him, together with regular interest from the date of withdrawal to the date of repayment.

(2) In any case of doubt as to the period to be so credited any member, the Board of Trustees of the State Police Retirement System shall have the final power to determine the period.

(3) During the period of armed service and until his return to the employ of the department, his contributions to the members' deposit account shall be suspended, and his balance in the account shall be accumulated at regular interest.

(4) The federal service so credited a member shall be excluded in computing his final average salary.

(b)(1) The board shall determine by appropriate rules and regulations the amount of service to be credited any member.

(2) In no case shall less than fifteen (15) days of service rendered in any calendar month be credited as a month of service, nor shall less than ten (10) months of service rendered in any calendar year be credited as a year of service, nor shall more than one (1) year of service be credited any member for all service rendered by him in any calendar year.

(c)(1) Except as otherwise provided in this subchapter, should any member leave the employ of the department for any reason except his retirement as provided in this subchapter or his death, he shall thereupon cease to be a member, and his credited service at that time shall be forfeited by him.

(2) In the event he again becomes employed in the department as a state police officer, he shall again become a member of the system.

(3)(A) In the event his reemployment occurs within a period of five (5) years from and after the date he last left the employ of the department, his credited service last forfeited by him shall be restored to his credit, but only if he returns to the members' deposit account the amounts he may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(B) Repayment shall be made according to such rules and regulations as the board shall adopt from time to time.

(4) Except as otherwise provided in this subchapter, should a person return to the employment of the department after the expiration of a period of five (5) years from and after the date of his employment with the department last terminated, he shall not have his credited service last forfeited by him restored to his credit.

(5) Upon a member's retirement or death, he shall cease to be a member.

**History.** Acts 1951, No. 311, § 6; 1953, No. 309, § 2; 1957, No. 308, § 2; 1959, No. 484, § 6; A.S.A. 1947, § 42-456.

#### **24-6-211. Eligibility for benefits — Mandatory retirement.**

(a) A member shall be separated from Department of Arkansas State Police employment the first day of the calendar month next following the month in which he attains age sixty-five (65).

(b) If, upon his separation from department employment, the member has five (5) or more years of actual service, he shall receive a pension provided for in § 24-6-214.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1971, No. 309, § 2; A.S.A. 1947, § 42-455; Acts 1997, No. 1053, § 18.

**Amendments.** The 1997 amendment substituted "has five (5) or more years of actual service" for "has ten (10) or more years of credited service" in (b).

#### **24-6-212. Eligibility for benefits — Voluntary retirement.**

(a)(1) Any member who has acquired twenty (20) or more years of credited service, or any member who has attained age fifty (50) and has acquired five (5) or more years of actual service, may voluntarily retire upon his written application filed with the Board of Trustees of the State Police Retirement System.

(2) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he desires to be retired.

(b) Upon his retirement, he shall receive a pension provided for in § 24-6-214.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1971, No. 309, § 1; A.S.A. 1947, § 42-455; Acts 1997, No. 1053, § 19.

**Amendments.** The 1997 amendment substituted "five (5) or more years of actual service" for "ten (10) or more years of credited service" in (a)(1).

#### **24-6-213. Eligibility for benefits — Disability retirement.**

(a)(1)(A) Upon application filed with the Board of Trustees of the State Police Retirement System by a member or by the Director of the Department of Arkansas State Police on behalf of a member, a member who is in the employ of the Department of Arkansas State Police, who has five (5) or more years of actual service, and who becomes totally and permanently incapacitated for duty in the employ of the department by reason of a personal injury or disease may be retired by the board, but only after a medical examination of the member.

(B) This examination shall be made by or under the direction of a medical committee consisting of three (3) physicians, one of whom shall be selected by the board, one by the member, and the third by the first two (2) physicians so named if the medical committee reports to the board, by majority opinion in writing, that the member is physically or mentally incapacitated for duty in the employ of the department, that the incapacity will probably be permanent, and that the member should be retired.

(2) The five (5) years of service requirement contained in this subsection shall not apply to a member whom the board finds to be in receipt of workers' compensation for his disability arising solely and exclusively out of and in the course of his employment with the department.

(b)(1) Upon his retirement on account of disability as provided in subsection (a) of this section, a member shall receive a disability pension computed according to § 24-6-214.

(2) However, his disability pension shall not be less than twenty percent (20%) of his final average salary and shall be subject to subsections (c)-(e) of this section.

(c)(1) At least once each year during the first five (5) years following a member's retirement on account of disability and at least once in every three-year period thereafter, the board may, and upon the retirant's application shall, require any disability retirant who has not attained age fifty (50) to undergo a medical examination to be made by or under the direction of a physician designated by the board.

(2) If the retirant refuses to submit to a medical examination in any such period, his disability pension may be suspended by the board until his withdrawal of his refusal.



(3) If his refusal continues for one (1) year, all his rights in and to a disability pension may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically capable of performing the duties of the rank held by him at the time of his retirement, the retirant shall be returned to the employ of the department, and his disability pension shall be terminated.

(d)(1) Upon a disability retirant's return to the employ of the department as provided in subsection (c) of this section, his credited service at the time of his retirement shall be restored to his credit.

(2) He shall be given service credit for the period he was receiving a disability pension if, within that period, he was in receipt of workers' compensation on account of his department employment.

(e) In the event a disability retirant who has not attained age fifty (50) performs personal services in an occupation, business, or employment, his disability pension shall be reduced so that the sum of his disability pension and the compensation received by him from the occupation, business, or employment shall not exceed his annual rate of salary at the time of his retirement.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1971, No. 309, §§ 4, 5; A.S.A. 1947, § 42-455; Acts 1997, No. 1053, § 20.

substituted "five (5) or more years of actual service" for "ten (10) or more years of credited service" in (a)(1)(A); and substituted "five (5) years" for "ten (10) years" in (a)(2).

**Amendments.** The 1997 amendment

## 24-6-214. Benefits generally.

(a) Upon his retirement as provided in this subchapter, a member shall receive a straight life pension equal to the following sum: Two and nine hundred forty-nine thousandths percent (2.949%) of his final average salary multiplied by the number of years, and any fraction of a year, of his credited service not to exceed twenty (20) years, plus the sum of two and three hundred fifty-nine thousandths percent (2.359%) of his final average salary multiplied by the number of years, and any fraction of a year, of his credited service in excess of twenty (20) years but not in excess of twenty-five (25) years, plus one and eighteen hundredths percent (1.18%) of his final average salary multiplied by the number of years, and any fraction of a year, of his credited service in excess of twenty-five (25) years but not in excess of thirty (30) years.

(b)(1) In the event a member who has acquired twenty (20) years or more of credited service retires prior to his attainment of age fifty (50), as provided in this subchapter, his pension, as provided for in subsection (a) of this section, shall be reduced one-half percent (0.5%) multiplied by the number of completed months in the period from the date he requests his pension to begin to the date he would have attained age fifty (50).

(2) In the event a member with five (5) years or more of credited service in the system ceases to be employed as a state police officer prior to reaching fifty (50) years of age and does not withdraw his accumu-

lated employee contributions to the State Police Retirement System, the member shall be entitled to receive a pension upon reaching fifty (50) years of age, computed in the same manner as the pension of other retirants under the system.

(3) Any member may elect to withdraw his accumulated contributions to the system at the time of terminating employment as a state police officer and to waive any pension rights the member may have earned in the system.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1971, No. 309, § 3; 1977, No. 460, § 1; A.S.A. 1947, § 42-455; Acts 1991, No. 225, § 1; 1997, No. 1053, § 21.

**Amendments.** The 1997 amendment substituted "five (5) years or more" for "ten (10) years or more" in (b)(2).

### CASE NOTES

#### Unused Vacation.

Lump sum termination payment for accrued unused annual leave could not be used in calculating final average salary and retirement pay since there should be

no distinction in retirement benefits between an officer who takes a vacation and one who does not. Board of Trustees v. Halsell, 271 Ark. 815, 610 S.W.2d 881 (1981).

#### 24-6-215. Benefits — Death of retirant.

(a) In the event a retirant who is in receipt of a straight life pension dies before he has received in straight life pension payments an aggregate amount equal to his accumulated contributions standing to his credit in the members' deposit account at the time of his retirement, then the difference between his accumulated contributions and the aggregate amount of straight life pension payments received by him shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the Board of Trustees of the State Police Retirement System.

(b) If there is no designated person surviving the retirant, the difference, if any, shall be paid in accordance with the laws of descent and distribution of the State of Arkansas.

(c) The payments may be made directly to a curator, guardian, administrator, or executor authorized to receive such payments, whenever the representative may be, with or without the appointment of a representative in this state.

(d) In no case shall any benefits be paid under this section on account of the death of a retirant if any pensions become payable from funds of the State Police Retirement System on account of his death.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1971, No. 130, §§ 1, 2; A.S.A. 1947, § 42-455.

#### 24-6-216. Benefits — Survivor's pension upon death of retirant.

(a)(1) In the event a retirant dies and leaves a spouse to whom the retirant was married, the surviving spouse shall receive a pension

equal to seventy-five percent (75%) of the retirant's pension, but only if the spouse has under care the retirant's dependent children whose dates of birth are prior to the retirant's date of retirement.

(2) When the spouse no longer has under care such a dependent child, the pension shall be reduced to fifty percent (50%) of the retirant's pension.

(3) Upon the spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b)(1) In the event a retirant dies and leaves a spouse to whom he was married and who does not have under care the retirant's dependent children, the surviving spouse shall receive a pension equal to fifty percent (50%) of the retirant's pension.

(2) Upon the spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c)(1) In the event a retirant dies and does not leave a spouse eligible for a pension as provided for in this section, or in the event the surviving spouse dies or remarries and the pension provided for in subsection (a) of this section is terminated, and there is surviving the retirant a dependent child, or children, each such child shall receive a pension of an equal share of seventy-five percent (75%) of the retirant's pension.

(2) In no case shall the pension payable to any such child exceed twenty-five percent (25%) of the retirant's pension.

(d)(1)(A) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child is continuously enrolled as a full-time student at an accredited secondary school or accredited postsecondary institution of higher education, but in no event beyond his attainment of age twenty-three (23).

(ii) The eighteen-year maximum shall also be extended for any child who has been deemed physically or mentally incompetent by a court with jurisdiction over the individual or by the Board of Trustees of the State Police Retirement System, for as long as the incompetency exists.

(2) Once a child ceases to be dependent, his annuity shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children.

(3) The board is hereby authorized to establish through rules and regulations a means of verification of enrollment in a secondary school or postsecondary institution of higher education by a surviving dependent child under this section for purposes of pension benefits.

(e)(1) If a surviving spouse who is receiving survivor's benefits under this section remarries, and the benefits are discontinued, and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.



(2) Benefits shall be resumed for any surviving spouse who had remarried but is unmarried on that date, but no such benefits will be paid the surviving spouse for any period prior to July 1, 1991.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1977, No. 403, § 1; 1981, No. 909, § 8; A.S.A. 1947, § 42-455; Acts 1989, No. 529, § 1; 1991, No. 387, § 1; 1995, No. 731, § 1.

**A.C.R.C. Notes.** As enacted, the 1991

amendment in (e)(2) began "Effective July 1, 1991."

**Amendments.** The 1995 amendment deleted "at least three (3) years prior to the date of his retirement" following "married" in (a)(1) and (b)(1).

### **24-6-217. Benefits — Survivor's pension upon death of member.**

(a)(1) In the case of a member who dies on or after January 1, 1956, and leaves a spouse who has the care of the member's dependent child or children, the surviving spouse shall receive a pension equal to the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(2) When the surviving spouse no longer has the care of such dependent child, the pension shall be reduced to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(3) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b)(1) In the case of a member who dies on or after January 1, 1956, and leaves a spouse who does not have in his care the member's dependent child or children, the surviving spouse shall receive a pension equal to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(2) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c)(1) In the event a member dies and does not leave a spouse, or in the event the surviving spouse remarries or dies and there is surviving the member a dependent child or children, each such child shall receive a pension of an equal share of the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that he might not have been eligible to retire.

(2) In no case shall the annual pension payable to any such child exceed fifteen percent (15%) of the final average annual salary of the deceased member.

(d)(1) In the event a member who has five (5) or more years of credited service dies and leaves neither a spouse nor children eligible for pensions provided for in subsections (a)-(c) of this section, and there is surviving the member his parents, whom the board finds to be dependent upon the member for at least fifty percent (50%) of their support due to lack of financial means, each dependent parent shall receive a pension of an equal share of fifty percent (50%) of the pension to which the member would have been entitled had he retired the day preceding the date of his death, notwithstanding that the member might not have been eligible to retire.

(2) Upon the remarriage or death of the parent, his pension shall terminate.

(e)(1)(A) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child is continuously enrolled as a full-time student at an accredited secondary school or accredited postsecondary institution of higher education, but in no event beyond his attainment of age twenty-three (23).

(ii) The eighteen-year maximum shall also be extended for any child who has been deemed physically or mentally incompetent by a court with jurisdiction over the individual or by the board, for as long as the incompetency exists.

(2) Once a child ceases to be dependent, his annuity shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children.

(3) The board is hereby authorized to establish through rules and regulations a means of verification of enrollment in a secondary school or postsecondary institution of higher education by a surviving dependent child under this section for purposes of pension benefits.

(f)(1) If a surviving spouse who is receiving survivor's benefits under this section remarries, and the benefits are discontinued, and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(2) Benefits shall be resumed for any surviving spouse who had remarried but is unmarried on that date, but no such benefits will be paid the surviving spouse for any period prior to July 1, 1991.

**History.** Acts 1951, No. 311, § 5; 1953, No. 309, § 1; 1957, No. 308, § 1; 1959, No. 484, § 5; 1971, No. 130, §§ 1, 2; 1981, No. 909, § 8; A.S.A. 1947, § 42-455; Acts 1989, No. 529, § 2; 1991, No. 387, § 2. **A.C.R.C.** As enacted, the 1991 amendment in (f)(2) began "Effective July 1, 1991".

## **24-6-218. Benefits — Survivors' benefits upon death of officer killed in line of duty while not member of system.**

(a)(1) In the event any uniformed employee of the Department of Arkansas State Police is killed while in the performance of his duties,

yet the widow and surviving children of the uniformed employee of the department are deprived of receiving benefits as prescribed in § 24-6-217 because the uniformed employee was not a member of the system at the time of his death, or had not completed any probationary period of service required by regulations of the Arkansas State Police Commission, or had not obtained sufficient service for benefits, the widow may make application to the Board of Trustees of the State Police Retirement System.

(2) Upon establishing proof of the facts set forth in this subsection, the widow and surviving children shall be eligible for and receive survivors' benefits for herself and the unmarried children of the deceased uniformed employee who was killed in the line of duty, which children are under eighteen (18) years of age or age twenty-two (22) while enrolled in an institution of higher education, as provided in § 24-6-217.

(b) Upon the reaching of eighteen (18) years of age by the unmarried children or the failure to enroll in an institution of higher education if the child is under age twenty-two (22), the widow shall continue to receive benefits as provided by law, but upon her remarriage or death, the benefits shall terminate.

(c) It is the specific intent of this section that widows as described in this section be eligible for survivors' benefits for themselves and any unmarried children under eighteen (18) years of age of the deceased uniformed employee of the department who was killed in the line of duty, or any children under age twenty-two (22) while enrolled in an institution of higher education, irrespective of whether the employee was a member of, or was eligible for benefits under, the State Police Retirement System at the time of his death.

(d) Upon certification of these facts by the board, the Director of the Department of Finance and Administration shall direct the Treasurer of State to transfer from the Department of Arkansas State Police Fund, annually, to the State Police Retirement Fund an amount equal to the funds expended from the State Police Retirement Fund for the payment of survivors' benefits as authorized in this section in order to reimburse the fund therefor.

(e)(1) For purposes of this section, "an institution of higher education" means any public university, college, community college, and any nonpublicly supported not-for-profit college or university.

(2) The board is hereby authorized to establish through rules and regulations a means of verification of enrollment in an institution of higher education by a surviving child under this section for purposes of continuation of pension benefits.

**History.** Acts 1967, No. 309, § 1; A.S.A. 1947, § 42-460; Acts 1989, No. 529, § 3.

**Cross References.** Death benefits, state police officers, § 12-8-212.

Payment to dependents of state police

officer killed in line of duty, § 21-5-701 et seq.

Scholarships for children of state police officers disabled or killed in line of duty, § 6-82-501 et seq.



**24-6-219. Benefits — Redetermination of benefits.**

- (a) Each July 1 the State Police Retirement System shall redetermine the amount of each monthly benefit which has been payable by the system for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months.
- (b) The redetermined amount shall be the amount of the benefit payable as of the immediately preceding July 1 increased by three percent (3%).

**History.** Acts 1981, No. 483, § 1; A.S.A. 1947, § 42-467; Acts 1991, No. 432, § 3; 1997, No. 130, § 1; 1999, No. 387, § 1.

**Amendments.** The 1997 amendment rewrote this section.

The 1999 amendment substituted “The redetermined amount” for “Subject to the maximum stated in subsection (c) of this section, the” in (b); and deleted former (c) and (d).

**24-6-220. Benefits — Increased benefits generally.**

- (a) Each person receiving retirement benefits from the State Police Retirement System on July 1, 1983, shall, beginning July 1, 1983, receive an increase in monthly benefits of five percent (5%).
- (b) Beginning on July 1, 1984, all persons who were receiving benefits under the system on July 1, 1983, shall receive an additional increase in monthly benefits of five percent (5%).

**History.** Acts 1983, No. 486, § 1; A.S.A. 1947, § 42-463.1.

**24-6-221. Benefits — Increased benefits for persons retiring by June 1, 1982, or by July 1, 1982.**

(a)(1) Effective July 1, 1987, the monthly retirement benefit payable to the retirees and beneficiaries of the State Police Retirement System who retired prior to July 1, 1982, shall be increased as follows:

<u>Date of Retirement</u>	<u>Percent of Increase</u>
7-1-82 and after	0%
7-1-80 through 6-30-82	6%
7-1-75 through 6-30-80	12%
Before 7-1-75	18%

- (2) It is the specific intent of this subsection that those retirants or beneficiaries who retired before July 1, 1975, shall receive a maximum increase of eighteen percent (18%).
- (3) The increase in benefits provided in subdivision (a)(1) of this section shall be added to the monthly benefit after the annual post-retirement increase based on the consumer price index has been applied, and the increase provided in subdivision (a)(1) of this section shall be added to the base annuity of the member or beneficiary.

(b)(1) On July 1, 1985, the monthly retirement benefit payable to retirants and beneficiaries of retirants of the system who retired June 1, 1982, or before shall be increased as follows:

(A) Those retirants and beneficiaries who retired June 1, 1982, or before, shall receive one percent (1%) of the benefit amount payable June 1, 1982, for each full year from the date of retirement through June 1, 1983, with a maximum increase payable of ten percent (10%) of the June 1, 1982, retirement benefit.

(B) The following schedule shall be used to determine the percent of increase due:

<u>Date of Retirement</u>	<u>Percent of Increase</u>
7-1-82 and after	0%
7-1-81 through 6-1-82	1%
7-1-80 through 6-1-81	2%
7-1-79 through 6-1-80	3%
7-1-78 through 6-1-79	4%
7-1-77 through 6-1-78	5%
7-1-76 through 6-1-77	6%
7-1-75 through 6-1-76	7%
7-1-74 through 6-1-75	8%
7-1-73 through 6-1-74	9%
7-1-72 through 6-1-73	10%
Before 7-1-72	10%

(2) It is the specific intent of this subsection that those retirants or beneficiaries who retired before June 1, 1973, shall receive a maximum increase of ten percent (10%).

(3) The increase in benefits provided in subdivision (b)(1) of this section shall be added to the monthly benefit after the annual post-retirement increase based on the consumer price index has been applied, and the increase provided in subdivision (b)(1) of this section shall be added to the base annuity of the member or beneficiary.

**History.** Acts 1985, No. 555, § 1;  
A.S.A. 1947, § 42-463.2; Acts 1987, No.  
718, § 1.

## **24-6-222. Refund of contributions.**

(a)(1) In the event a member leaves the employ of the Department of Arkansas State Police prior to the date he becomes entitled to retire with a pension payable from funds of the State Police Retirement System, he shall be paid, upon his written application filed with the Board of Trustees of the State Police Retirement System, the accumulated contributions standing to his credit in the members' deposit account if his separation from the employ of the department occurs after five (5) years from the date he last became a member of the system.

(2) If his separation from the employ of the department occurs within a period of five (5) years from and after the date he last became a member of the system, he shall be paid, upon his written application filed with the board, his accumulated contributions standing to his credit in the members' deposit account less the total interest credited to his individual account therein.

(b)(1) In the event a member who has twenty (20) years or more of credited service leaves the employ of the department for any reason except his retirement as provided in this subchapter, or his death, he may, if he so chooses, remain a member for the exclusive purpose only of receiving his pension as provided in § 24-6-214.

(2) The pension shall come the first day of the calendar month next following the month in which his application therefor is filed with the board or after the attainment of age fifty (50).

(c)(1) In the event a member dies and does not leave a beneficiary entitled to a pension payable from funds of the system, his accumulated contributions standing to his credit in the members' deposit account at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving the member, his accumulated contributions shall be paid in accordance with the laws of descent and distribution of the State of Arkansas.

(3) The payments may be made directly to a curator, guardian, administrator, or executor authorized to receive such payments, wherever the representative may be, with or without the appointment of a representative in this state.

(d) Refunds of a member's contributions or accumulated contributions, as the case may be, may be made in equal installments according to such rules and regulations as the board may adopt from time to time.

**History.** Acts 1951, No. 311, § 7; 1953, 309, § 6; 1977, No. 460, § 2; A.S.A. 1947, No. 309, § 3; 1959, No. 484, § 7; 1971, No. § 42-457.

### **24-6-223. Interest in fund not transferable or subject to legal process.**

(a) No person entitled to any interest or share in any pension, any return of contributions or accumulated contributions, or any other benefit payable or to be made payable from funds of the system shall have the right to anticipate such entitlement or to sell, assign, pledge, mortgage, or otherwise dispose of or encumber such entitlement, nor shall any interest or share in any pension, any return of contributions or accumulated contributions, or any other benefit payable or to be made payable from funds of the system be liable for the debts or liabilities of the person or persons entitled thereto, or be subject to attachment, garnishment, execution, levy, sale, or judicial proceedings, or be transferable by any means, voluntarily or involuntarily, except as expressly provided for in this subchapter.



(b) Should a member be covered by a group insurance or prepayment plan participated in by the Department of Arkansas State Police and should he be permitted to, and elect to, continue the coverage as a retirant, nothing contained in this section shall prevent the board, upon the member's written request, from deducting from his pension the payments required of him to continue coverage under the group insurance or prepayment plan.

(c) The State of Arkansas shall have the right of setoff for any claim arising from embezzlement by, or fraud of, a member, retirant, or beneficiary.

**History.** Acts 1951, No. 311, § 8; 1953, No. 309, § 4; 1959, No. 484, § 8; A.S.A. 1947, § 42-458.

### RESEARCH REFERENCES

**UALR L.J.** Legislative Survey, Business Law, 4 UALR L.J. 579.

#### 24-6-224. Increase in benefits.

(a) On July 1, 1991, the monthly retirement benefit payable to retirants and beneficiaries of the State Police Retirement System who retired June 1, 1991, or before, shall be increased by four percent (4%) of the benefit payable on June 1, 1991.

(b) The increase in benefits provided in subsection (a) of this section shall be added to the monthly benefit after the annual postretirement increase based on the consumer price index has been applied, and the increase in subsection (a) of this section shall be added to the base annuity of the retirant or beneficiary.

**History.** Acts 1991, No. 380, § 2.

**A.C.R.C.** References to "this subchapter" in §§ 24-6-201 — 24-6-223 may not

apply to this section which was enacted subsequently.

### SUBCHAPTER 3 — DEFERRED OPTION PLAN

#### SECTION.

24-6-301. Election to participate.

24-6-302. Credited service.

24-6-303. Contributions.

24-6-304. Benefits — Rate of return.

#### SECTION.

24-6-305. Method of collection.

24-6-306. Duration.

24-6-307. Death of participant.

### RESEARCH REFERENCES

**Am. Jur.** 60A Am. Jur. 2d, Pens., §§ 826, 1154, 1614.

**24-6-301. Election to participate.**

In lieu of terminating employment and accepting a service retirement pension, any state police officer who is a member of the State Police Retirement System who has not less than thirty (30) years of credited service and who is eligible to receive a service retirement pension may elect to participate in the Arkansas State Police Officers Deferred Option Plan and defer the receipt of benefits in accordance with the provisions of this subchapter, provided the Board of Trustees of the State Police Retirement System approves the participation in the plan.

**History.** Acts 1995, No. 967, § 1.

**24-6-302. Credited service.**

For purposes of this subchapter, credited service shall include service credit recognized pursuant to § 24-3-301.

**History.** Acts 1995, No. 967, § 1.

**24-6-303. Contributions.**

(a) When a member begins participation in the Arkansas State Police Officers Deferred Option Plan, the employer contributions shall continue to be paid.

(b) State contributions for employees who elect the plan shall be credited to the State Police Retirement System.

(c) The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Arkansas State Police Officers Deferred Option Plan Account.

**History.** Acts 1995, No. 967, § 1.

**24-6-304. Benefits — Rate of return.**

(a) The member's monthly retirement benefit shall not change unless the Arkansas State Police Officers Deferred Option Plan receives a benefit increase.

(b)(1) A member who participates in this plan shall earn interest at a rate of two (2) percentage points below the rate of return of the investment portfolio of the State Police Retirement System, but no less than the actuarially assumed interest rate as certified by the actuary.

(2) The interest shall be credited to the individual account balance of the member on an annual basis.

**History.** Acts 1995, No. 967, § 1.

**24-6-305. Method of collection.**

A participant in the Arkansas State Police Officers Deferred Option Plan shall receive, at the option of the participant, a lump-sum

payment from the account equal to the payments to the account, or a true annuity based upon the account of the participant, or may elect any other method of payment if approved by the Board of Trustees of the State Police Retirement System.

**History.** Acts 1995, No. 967, § 1.

### **24-6-306. Duration.**

(a) The duration of participation in the Arkansas State Police Officers Deferred Option Plan for active state police officers shall not exceed five (5) years.

(b) At the conclusion of a member's participation in the Arkansas State Police Officers Deferred Option Plan, the member shall terminate employment with the Department of Arkansas State Police and shall start receiving the member's accrued monthly retirement benefit from the State Police Retirement System.

**History.** Acts 1995, No. 967, § 1.

### **24-6-307. Death of participant.**

If the participant dies during the period of participation in the Arkansas State Police Officers Deferred Option Plan, a lump-sum payment equal to the account balance of the participant shall be paid to the participant's survivor.

**History.** Acts 1995, No. 967, § 1.

## **SUBCHAPTER 4 — TIER TWO BENEFIT PLAN**

#### **SECTION.**

- 24-6-401. Creation of Tier Two Benefit Plan.
- 24-6-402. Membership.
- 24-6-403. Definitions.
- 24-6-404. Eligibility for benefits — Voluntary retirement.
- 24-6-405. Eligibility for benefits — Disability retirement.
- 24-6-406. Benefits generally.
- 24-6-407. Benefits — Death of retirant.
- 24-6-408. Benefit provisions — Election of annuity options.

#### **SECTION.**

- 24-6-409. Redetermination of benefits.
- 24-6-410. Benefit provisions — Early retirement.
- 24-6-411. Benefit provisions — Death.
- 24-6-412. Refund of contributions.
- 24-6-413. Benefit provisions — Subjection of annuity rights to process of law.
- 24-6-414. Maximum benefit limitation.
- 24-6-415. Exclusion from deferred retirement option plan.

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**Effective Dates.** Acts 1997, No. 1071, § 7: Apr. 3, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the current funding provisions of the State Police Retirement System are inadequate and that the benefit provisions of the system must be

modified to restore the financial security of the system; that this act accomplishes those purposes; that this act should go into effect as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health



and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 387, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that historically the State Police Retirement System has

recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect of July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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### **24-6-401. Creation of Tier Two Benefit Plan.**

A Tier Two Benefit Plan for the State Police Retirement System is created and established in conformance with this subchapter.

**History.** Acts 1997, No. 1071, § 1.

### **24-6-402. Membership.**

(a) All state police officers first hired on or after April 3, 1997, shall be covered by the benefit provision of this subchapter.

(b)(1) All state police officers who were hired prior to April 3, 1997, and who are active members of the State Police Retirement System on April 3, 1997, shall have twelve (12) months from April 3, 1997, to elect coverage under the benefit provisions of this subchapter; provided the person must be an active member on the date of the election.

(2) The election shall be made as directed by the Board of Trustees of the State Police Retirement System and shall be irrevocable.

**History.** Acts 1997, No. 1071, § 1.

### **24-6-403. Definitions.**

As used in this subchapter, unless the context otherwise requires:

(1) "Accumulated contribution" means the sum of all amounts deducted from the salaries of a member and credited to his individual account in the members' deposit account, together with regular interest credited thereon;

(2) "Actuarial equivalent" means a benefit of equal reserve value where "reserve" means the present value of all payments paid on account of any benefit based upon such reasonable rates of interest and tables of experience as a plan shall adopt from time to time;

(3) "Actual service" means the service credited to a member under this subchapter. Employment in a position covered by this subchapter shall be credited at the rate of one (1) month for each month of employment;

(4) "Beneficiary" means any person except a retirant who is in receipt of or who is entitled to receive a pension or other benefit payable from funds of the system;

(5) "Board" means the Board of Trustees of the State Police Retirement System;

(6) "Department" means the Department of Arkansas State Police;

(7) "Director" means the Director of the Department of Arkansas State Police;

(8) "Final average salary" means the average of the highest annual salaries paid a member during any period of forty-eight (48) calendar months of credited service with a public employer. Should a member have less than forty-eight (48) calendar months of credited service, "final average salary" means the average of the annual salaries paid to him during his total years of service;

(9) "Member" means any state police officer who is included in the membership of the system as provided in § 24-6-402;

(10)(A) "Pension" means an annual amount payable from the funds of the system throughout the life of a person.

(B) All pensions shall be paid in equal monthly installments;

(11) "Pension reserve" means the present value of a pension computed upon the basis of such mortality and other tables of experience, and regular interest as the board, from time to time, shall adopt;

(12) "Regular interest" means such rates of interest per annum compounded annually as the board, from time to time, shall prescribe;

(13) "Retirant" means any member who retires with a pension payable from funds of the system;

(14) "Retirement" means a member's withdrawal from the employ of the department with a pension payable from the funds of the system;

(15)(A) "Salary" means the compensation paid a member for service rendered by him as a state police officer.

(B) In no case shall the term "salary" include reimbursement for lodging, meals, or travel expenses;

(16) "Service" means service rendered to the department by a state police officer and shall include previous service, if any, rendered by him as an Arkansas state ranger;

(17)(A) "State police officer" means any employee of the Department of Arkansas State Police who holds the rank of state trooper or a higher rank, and it shall include the director.

(B) The term "state police officer" shall not include any civilian employee of the department, nor shall it include any person who is temporarily employed as a state trooper for an emergency.

(C) In any case of doubt as to who is a state police officer, the board shall decide the question; and

(18) "System" means the State Police Retirement System.

**History.** Acts 1997, No. 1071, § 1; (3) and (4) as present (4) and (5); and 1999, No. 387, § 2. deleted former (5); and made stylistic

**Amendments.** The 1999 amendment inserted present (3); redesignated former changes.

**24-6-404. Eligibility for benefits — Voluntary retirement.**

(a)(1) Any member who has acquired five (5) years but less than thirty (30) years of actual service and has attained age sixty-five (65) may retire upon his written application filed with the Board of Trustees of the State Police Retirement System.

(2) Any member who has acquired thirty (30) or more years of actual service may retire at any age upon his written application filed with the board.

(3) For those members with less than thirty (30) actual years of service, the age sixty-five (65) requirement shall be reduced by seventy-five hundredths (.75) of a month for each actual month of service, but in no event to an age younger than fifty-five (55).

(b) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desires to be retired.

(c) Upon the member's retirement, he shall receive a pension provided for in § 24-6-406.

**History.** Acts 1997, No. 1071, § 1; **Amendments.** The 1999 amendment 1999, No. 387, § 3. rewrote this section.

**24-6-405. Eligibility for benefits — Disability retirement.**

(a)(1)(A) Upon application filed with the Board of Trustees of the State Police Retirement System by a member or by the Director of the Department of Arkansas State Police on behalf of a member, a member who is in the employ of the Department of Arkansas State Police, who has five (5) or more years of actual service, and who becomes totally and permanently incapacitated for duty in the employ of the department by reason of personal injury or disease may be retired by the board, but only after a medical examination of the member.

(B) This examination shall be made by or under the direction of a medical committee consisting of three (3) physicians, one (1) of whom shall be selected by the board, one (1) by the member, and the third by the first two (2) physicians so named if the medical committee reports to the board, by majority opinion in writing, that the member is physically or mentally incapacitated for duty in the employ of the department, that the incapacity will probably be permanent, and that the member should be retired.

(2) The five (5) years of service requirement contained in this subsection shall not apply to a member whom the board finds to be in receipt of workers' compensation for his disability arising solely and exclusively out of and in the course of his employment with the department.

(b) Upon his retirement upon account of disability as provided in subsection (a) of this section, a member shall receive a disability pension computed according to § 24-6-406.



(c)(1) At least once each year during the first five (5) years following a member's retirement on account of disability and at least once in every three-year period thereafter, the board may, and upon the retirant's application shall, require any disability retirant who has not attained age fifty-five (55) to undergo a medical examination to be made by or under the direction of a physician designated by the board.

(2) If the retirant refuses to submit to a medical examination in any such period, his disability pension may be suspended by the board until his withdrawal of his refusal.

(3) If his refusal continues for one (1) year, all his rights in and to a disability pension may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically capable of performing the duties of the rank held by him at the time of his retirement, the retirant shall be returned to the employ of the department, and his disability pension shall be terminated.

(d)(1) Upon a disability retirant's return to the employ of the department as provided in subsection (c) of this section, his service at the time of his retirement shall be restored to his credit.

(2) He shall be given service credit for the period he was receiving a disability pension if within that period he was in receipt of workers' compensation on account of his department employment.

(e) In the event a disability retirant who has not attained age fifty-five (55) performs personal services in an occupation, business, or employment, his disability pension shall be reduced so that the sum of his disability pension and the compensation received by him from the occupation, business, or employment shall not exceed his annual rate of salary at the time of his retirement.

**History.** Acts 1997, No. 1071, § 1; deleted "credited" preceding "service" in 1999, No. 387, § 4.

**Amendments.** The 1999 amendment

## **24-6-406. Benefits generally.**

(a)(1) Upon his retirement as provided in this subchapter, a member shall receive a straight life pension equal to two and four hundred seventy-five thousandths percent (2.475%) of his final average salary multiplied by the number of years and any fraction of a year of his service.

(2)(A) In addition, if a member has service resulting from employment in a position covered at any time by social security or another federal retirement plan supported wholly or in part by employer contributions, and if that member's age at retirement is younger than:

(i) Social security's minimum age for an immediate retirement benefit; and

(ii) Age sixty-two (62),

then the member shall receive a temporary annuity equal to five hundred thirteen thousandths percent (.513%) of his final average salary for each year of his actual service.

(B) The temporary annuity shall terminate at the end of the calendar month in which the earliest of the following events occurs:

- (i) The member's death;
- (ii) His attainment of the social security minimum age; or
- (iii) His attainment of age sixty-two (62).

(b) In the event a member with five (5) years or more of actual service in the State Police Retirement System ceases to be employed as a state police officer prior to reaching fifty-five (55) years of age and does not withdraw his accumulated employee contributions to the system, the member shall be entitled to receive a pension upon reaching what his voluntary retirement age would have been if he had continued state police employment from time of termination of employment.

(c) Any member may elect to withdraw his accumulated contributions to the system at the time of terminating employment as a state police officer and to waive any pension rights the member may have earned in the system.

(d) It is considered sound public policy that retirement pay not exceed working pay except for increases after retirement caused by inflation. Accordingly, at the time of retirement, the total of named-plan annuities shall not exceed the member's final average salary.

(e) No provision of this section shall be applicable to service that is credited at a rate other than one (1) month for each month of employment.

**History.** Acts 1997, No. 1071, § 1; 1999, No. 387, § 5.

**Amendments.** The 1999 amendment deleted "credited" preceding "service" in (a)(1) and (a)(2)(A); substituted "two and four hundred and seventy-five thousandths percent (2.475%)" for "one and sixty-five hundredths percent (1.65%)" in

(a)(1); in (a)(2)(A)(ii), substituted "five hundred and thirteen thousandths percent (.513%)" for "three hundred forty-two thousandths percent (0.342%)" and substituted "actual service" for "credited service"; added (e); and made stylistic changes.

## **24-6-407. Benefits — Death of retirant.**

(a) In the event a retirant who is in receipt of a straight life pension dies before he has received in straight life pension payments an aggregate amount equal to his accumulated contributions standing to his credit in the members' deposit account at the time of his retirement, then the difference between his accumulated contributions and the aggregate amount of straight life pension payments received by him shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the Board of Trustees of the State Police Retirement System.

(b) If there is no designated person surviving the retirant, the difference, if any, shall be paid in accordance with the laws of descent and distribution of the State of Arkansas.

(c) The payments may be made directly to a curator, guardian, administrator, or executor authorized to receive such payments, wherever the representative may be, with or without the appointment of a representative in this state.

(d) In no case shall any benefits be paid under this section on account of the death of a retirant if any pensions become payable from funds of the State Police Retirement System on account of his death.

**History.** Acts 1997, No. 1071, § 1.

#### **24-6-408. Benefit provisions — Election of annuity options.**

(a) Before the date the first payment of his annuity becomes due, but not thereafter, a member may elect to receive his annuity as a straight life annuity or he may elect to have his annuity reduced and nominate a beneficiary in accordance with the provisions of one (1) of the following options:

(1) **OPTION A60 — SIXTY (60) MONTHS CERTAIN AND LIFE ANNUITY.**

(A) Under Option A60, the retirant shall be paid a reduced annuity for life with the provisions that if the retirant's death occurs before sixty (60) monthly payments have been made, then the full reduced annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant shall have designated in writing and filed with the plan.

(B) If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(C) The reduced annuity shall be ninety-six percent (96%) of the straight life annuity;

(2) **OPTION A120 — ONE HUNDRED TWENTY (120) MONTHLY CERTAIN AND LIFE ANNUITY.**

(A) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons and in such shares as the retirant shall have designated in writing and filed with the plan.

(B) If there is no payee surviving, the lump sum actuarial equivalent of the remaining monthly payment shall be paid to the estate of the last survivor among the retirant and the designated persons.

(C) The reduced annuity shall be ninety percent (90%) of the straight life annuity;

(3) **OPTION B50 — FIFTY PERCENT (50%) SURVIVOR BENEFICIARY ANNUITY.**

(A)(i) Under Option B50, the retirant shall be paid a reduced annuity for life with the provision that, upon his death, one-half ( $\frac{1}{2}$ ) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the plan before his annuity starting date.



(ii) However, that person must be either his spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-three percent (83%) if the retirant's age and his beneficiary's age are the same on the first payment due date, which shall be decreased by one-half percent (0.5%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half percent (0.5%), up to a maximum of ninety-five percent (95%), for each year that the beneficiary's age is more than the retirant's age;

(4) OPTION B75 — SEVENTY-FIVE PERCENT (75%) SURVIVOR BENEFICIARY ANNUITY.

(A) Under Option B75, the retirant shall be paid a reduced annuity for life with the provision that, upon his death, three-quarters ( $\frac{3}{4}$ ) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in writing and filed with the plan before his annuity starting date; however, that person must be either his spouse for not less than one (1) year immediately preceding the first payment due date or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be seventy-five percent (75%) if the retirant's age and his beneficiary's age are the same on the first payment due date, which shall be decreased by three-quarters percent (0.75%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by three-quarters percent (0.75%), up to a maximum of ninety percent (90%), for each year that the beneficiary's age is more than the retirant's age.

(b)(1) A death of a spouse or divorce or other marriage dissolution or the death of a person forty (40) years of age or older who is the designated beneficiary under Option B50 or Option B75 following retirement shall cancel, at the written election of the retirant, Option B50 or Option B75 elected at retirement to provide continuing lifetime benefits to the designated person and return the retirant to this straight life or Option A60 or Option A120 annuity, to be effective the month following receipt of his election by the State Police Retirement System.

(2) A retirant who is receiving a straight life or Option A60 or Option A120 annuity and who marries after retirement or within one (1) year immediately preceding retirement may elect to cancel his straight life or Option A60 or Option A120 annuity and may elect Option B50 or Option B75 providing continuing lifetime benefits to his spouse, but only if the election is on a form approved by the system and is received by the system not earlier than one (1) year after the date of the marriage and not later than eighteen (18) months after that date.

(3) The election shall be effective the first day of the month following its receipt.

(c) If a member fails to elect an option, his annuity shall be paid him as a straight life annuity.

**History.** Acts 1997, No. 1071, § 1.

#### **24-6-409. Redetermination of benefits.**

(a) Each July 1 the State Police Retirement System shall redetermine the amount of each monthly benefit which has been payable by the system for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months.

(b) Subject to the maximum stated in subsection (c) of this section, the redetermined amount shall be the amount of the benefit payable as of the immediately preceding July 1 increased by three percent (3%).

(c) In no event shall the redetermined amount be more than the amount of the benefit payable as of the immediately preceding July 1 multiplied by the following fraction:

(1) The numerator shall be the average of the consumer price index for the twelve (12) calendar months in the calendar year immediately preceding July 1, but in no event an amount less than the denominator; and

(2) The denominator shall be the average of the consumer price index for the twelve (12) calendar months in the second calendar year preceding the redetermination date.

(d)(1) As used in this section, "consumer price index" means the Consumer Price Index for All Urban Consumers, as determined by the United States Department of Labor and in effect January 1, 1987.

(2) However, should the consumer price index be restructured subsequent to 1988 in a manner materially changing its character, the Board of Trustees of the State Police Retirement System, after receiving the advice of the actuary, shall change the application of the consumer price index so that, as far as is practicable, the 1986 intent of the use of the consumer price index shall be continued.

**History.** Acts 1997, No. 1071, § 1.

#### **24-6-410. Benefit provisions — Early retirement.**

(a)(1) Any member or former member with sufficient years of service to qualify for a vested termination annuity who has not attained his voluntary retirement age as provided in § 24-6-404 may retire with an early annuity provided for in subsection (b) of this section upon his written application to the Board of Trustees of the State Police Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of his application, he desires to be retired.

(2) The member or former member eligible for a vested termination annuity must have at least five (5) years of actual service and be within ten (10) years of voluntary retirement age.

(b) Upon early retirement, a member shall receive a certain percentage of an annuity for life provided for in § 24-6-406, which percentage shall be one hundred percent (100%) reduced by one-half percent (0.5%) multiplied by the number of months by which his age at early retirement is younger than his voluntary retirement age, using what his voluntary retirement age would have been if he had continued state police employment from the time of early retirement.

**History.** Acts 1997, No. 1071, § 1; deleted “credited” preceding “service” in 1999, No. 387, § 6.

(a)(1); and made stylistic changes.

**Amendments.** The 1999 amendment

### **24-6-411. Benefit provisions — Death.**

(a) If an active member with five (5) or more years of actual service, including service for the year immediately preceding his death, dies in employer service before retirement, the applicable benefit provided in this section shall be paid upon written application to the Board of Trustees of the State Police Retirement System.

(b)(1)(A) In the event that a member dies and is not being paid on that date by his employer due solely to illness incurred before he left the payroll and the death occurs within one (1) year of the last payroll, the member shall be considered, for purposes of this section, to have died as an active member if all other necessary provisions of this section are met.

(B) For purposes of computing benefits provided by this section, the deceased member’s salary at the time of death shall be his salary for the year immediately preceding the cessation of his pay.

(2)(A) If an active member with five (5) or more years of actual service does not have credited service for the year immediately preceding death due to illness which eventually leads to his death or due to his employer’s removing the member from the payroll because of temporary economic conditions of the employer or weather conditions, the active member shall be considered, only for eligibility purposes of the section, to have credited service for the year preceding death.

(B) Benefits shall be paid according to the salary earned during the year preceding death.

(c)(1) The member’s surviving spouse who was married to the member at least the one (1) year immediately preceding his death shall receive an annuity computed in the same manner in all respects as if the member had retired the date of his death with entitlement to an annuity provided for in § 24-3-406, elected the Option B75 survivor annuity provided for in § 24-3-408, and nominated his spouse as joint beneficiary.

(2)(A) If the member has satisfied the age and service requirement provided for in § 24-6-404 or had acquired twenty (20) years’ actual



service, then the spouse annuity shall commence immediately and be payable for her life.

(B) If the member had acquired fifteen (15) years' actual service, but had not attained age sixty-five (65), the spouse annuity shall commence at the later of either age fifty (50) or her age at his death and shall be payable until the earlier of her remarriage or death. Otherwise, the spouse annuity shall commence at the later of either age sixty-two (62) or her age at his death and shall be payable until the earlier of either her remarriage or death.

(3) The spouse annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at the time of death.

(4) In any event, as long as the surviving spouse has in her care any of the deceased member's dependent children receiving a benefit provided for in this section, there shall be payable to her a spouse annuity which shall not be less than ten percent (10%) of the deceased member's compensation at the time of death.

(d)(1) The member's dependent child or dependent children shall each receive an annuity of the greater of either ten percent (10%) of the member's covered compensation at the time of death or an equal share of one hundred fifty dollars (\$150) monthly.

(2) If there are three (3) or more dependent children, each dependent child shall receive as an annuity an equal share of the greater of either twenty-five percent (25%) of the member's covered compensation or one hundred fifty dollars (\$150) monthly.

(3)(A) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever occurs first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university but in no event beyond his attainment of age twenty-three (23).

(ii) The age eighteen (18) maximum shall also be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction or by the board for as long as the incompetency exists.

(4) Upon a child's ceasing to be a dependent child, his annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e) If, at the time of the member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of either ten percent (10%) of the member's covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, but only if the board finds that the parent was dependent for at least fifty percent (50%) of his financial support upon the member.

(f)(1) If no annuity can become payable to a dependent child due to the death of the member, and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and the spouse or dependent parents are also the designated beneficiaries of the member, then, in that event, the surviving spouse or dependent parent

may elect to receive a refund of the member's accumulated contributions in lieu of any benefits which could become payable under this subchapter.

(2) The option to choose a refund of the member's contribution shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this chapter and who could not exercise that option.

(3) Once the refund of the deceased member's accumulated contributions has been made to the surviving spouse or dependent parents under this subsection, the recipient shall have no future claim to monthly retirement benefits due to the death of the member.

(g)(1) In the event all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the member's deposit account at the time of his death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving a termination, the difference shall be paid to the member's estate.

(h)(1) In the case of a surviving spouse of a deceased member who had benefits terminated due to remarriage under the provisions of this section, the surviving spouse of the member shall be entitled to a reinstatement of benefits upon the death of any subsequent spouse.

(2) The benefits shall cease immediately upon the death or remarriage of the surviving spouse.

**History.** Acts 1997, No. 1071, § 1; deleted "credited" preceding "service for 1999, No. 387, § 7. the year" in (a); and made stylistic changes.

**Amendments.** The 1999 amendment changes.

## 24-6-412. Refund of contributions.

(a)(1) In the event a member leaves the employ of the Department of Arkansas State Police prior to the date he becomes entitled to retire with a pension payable from the funds of the State Police Retirement System, he shall be paid, upon his written application filed with the board, the accumulated contributions standing to his credit in the member's deposit account if his separation from the employ of the department occurs after five (5) years from the date he last became a member of the system.

(2) If his separation from the employ of the department occurs within a period of five (5) years from and after the date he last became a member of the system, he shall be paid upon his written application filed with the board his accumulated contributions standing to his credit in the members' deposit account less the total interest credited to his individual account therein.

(b)(1) In the event a member dies and does not leave a beneficiary entitled to a pension payable from funds of the system, his accumulated

contributions standing to his credit in the members' deposit account at the time of his death shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving the member, his accumulated contributions shall be paid in accordance with the laws of descent and distribution of the State of Arkansas.

(3) The payments may be made directly to a curator, guardian, administrator, or executor authorized to receive such payments whenever the representative may be with or without the appointment of a representative in this state.

(c) Refunds of a member's contributions or accumulated contributions, as the case may be, may be made in equal installments according to the rules and regulations that the board may adopt from time to time.

**History.** Acts 1997, No. 1071, § 1.

#### **24-6-413. Benefit provisions — Subjection of annuity rights to process of law.**

(a) The right of a person to an annuity, to the return of accumulated contributions, the annuity itself, any annuity option, any other right accrued or accruing under the provisions of the subchapter, and all moneys belonging to a plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this chapter.

(b) An employer shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

**History.** Acts 1997, No. 1071, § 1.

#### **24-6-414. Maximum benefit limitation.**

(a) Notwithstanding any other provisions of this chapter, benefits paid under the provisions of this chapter shall not exceed the limitations of Section 415 of the Internal Revenue Code that are applicable to governmental retirement plans.

(b)(1) The Board of Trustees of the State Police Retirement System is hereby empowered and authorized to promulgate all necessary rules and regulations to implement the limitations of Section 415 of the Internal Revenue Code.

(2) The rules and regulations adopted by the board pursuant to this section shall be amended to reflect any changes in the content or application of Section 415 of the Internal Revenue Code enacted by Congress or promulgated by the Internal Revenue Service.

**History.** Acts 1997, No. 1071, § 1.

**U.S. Code.** Section 415 of the Internal

Revenue Code, referred to in this section, is codified as 26 U.S.C. § 415.



**24-6-415. Exclusion from deferred retirement option plan.**

Members of the State Police Retirement System participating in the benefit program provided by this subchapter shall not be eligible for participation in the deferred retirement option plan provided in § 24-6-301 et seq.

**History.** Acts 1997, No. 1071, § 1.

**CHAPTER 7**

**RETIREMENT OF EMPLOYEES OF SCHOOLS AND  
EDUCATIONAL INSTITUTIONS**

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. ARKANSAS TEACHER RETIREMENT SYSTEM — GENERAL PROVISIONS.
- 3. ARKANSAS TEACHER RETIREMENT SYSTEM — BOARD OF TRUSTEES.
- 4. ARKANSAS TEACHER RETIREMENT SYSTEM — FUNDS AND MANAGEMENT OF ASSETS.
- 5. ARKANSAS TEACHER RETIREMENT SYSTEM — MEMBERSHIP.
- 6. ARKANSAS TEACHER RETIREMENT SYSTEM — CREDITED SERVICE.
- 7. ARKANSAS TEACHER RETIREMENT SYSTEM — BENEFITS.
- 8. ALTERNATE PLAN FOR STATE COLLEGES.
- 9. ALTERNATE PLAN FOR VOCATIONAL-TECHNICAL SCHOOLS.
- 10. EMPLOYEES OF PARTICULAR INSTITUTIONS.
- 11. NONTEACHING EMPLOYEES OF PUBLIC SCHOOLS.
- 12. TAX-DEFERRED SAVINGS PROGRAMS FOR THE MEMBERS OF THE ARKANSAS TEACHER RETIREMENT SYSTEM.
- 13. TEACHER DEFERRED RETIREMENT OPTION PLAN.
- 14. ARKANSAS TEACHER RETIREMENT SYSTEM AFFORDABLE HOUSING INVESTMENT ACT.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may

not apply to §§ 24-7-207, 24-7-208, 24-7-504, 24-7-608, 24-7-721, 24-7-722, 24-7-726 — 24-7-729, 24-7-1313, 24-7-1315, and 24-7-1401 — 24-7-1409 where were enacted subsequently.

**RESEARCH REFERENCES**

**Am. Jur.** 60A Am. Jur. 2d, Pensions, § 1614.

**SUBCHAPTER 1 — GENERAL PROVISIONS**

SECTION.

- 24-7-101. Special allowances to encourage early retirement.
- 24-7-102. Management of early retirement window incentives.

SECTION.

- 24-7-103. Payment of employer contribution rate.

**Effective Dates.** Acts 1983, No. 271, § 11: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1983 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1983 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation

of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1995, No. 296, § 9: Feb. 13, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to the efficient operation of the state supported institutions of higher education that the delay in the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

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### **24-7-101. Special allowances to encourage early retirement.**

(a) In order to effect a net savings in personnel costs paid by colleges and universities, the presidents and chancellors of the various publicly supported colleges and universities may, upon the approval of their respective boards of trustees, negotiate with tenured faculty members of their institutions so that, in order to secure the faculty members' early retirement, special allowances may be paid to them or into retirement plans for their benefit.

(b) The board of trustees of each institution is authorized to pay such allowances as the board may approve from any appropriation provided for regular salaries for the benefit of its institution and from any source of funds available to its institution.

(c) The amount of all such allowances for any institution shall not exceed, in the aggregate during any fiscal year, an amount equal to one percent (1%) of the aggregate paid for personnel costs during the preceding fiscal year for the institution.

(d) The board of trustees of each institution shall report the exact disposition of the special allowances to the Legislative Joint Auditing Committee each year.

**History.** Acts 1983, No. 271, § 8;  
A.S.A. 1947, § 80-1465.

### **24-7-102. Management of early retirement window incentives.**

(a) The purpose of this section is to create incentives for the efficient management of the public higher education resources of the State of Arkansas by allowing public higher education institutions to establish early retirement window incentives for qualified nontenured faculty and staff who elect voluntary separation from the institution.

(b) The boards of trustees of the publicly supported institutions of higher education may provide special allowances for nontenured faculty and staff to effect a saving in personnel salaries and fringe benefits costs when it is determined by the boards that such saving will provide for more efficient operation of the institutions.

(c)(1) The boards of trustees shall approve criteria to determine qualifications to be met by the institutions and the employee.

(2) The qualifications shall include, but are not limited to, assurance that:

(A) Participation is strictly voluntary for employees;

(B) Only full-time employees who are at least fifty-five (55) years of age or meet the retirement requirements for the United States Civil Service are qualified; and

(C) A savings in personnel cost will be realized by the institution.

(d) The amount of all such allowances for any institution shall not exceed, in the aggregate during any fiscal year, an amount equal to one percent (1%) of the aggregate paid for personnel costs during the preceding fiscal year for the institution.

(e) The boards of trustees are authorized to pay such allowances from any appropriation provided for regular salaries for the benefit of their institutions and from any sources of funds available to the institutions.

(f) The board of trustees of each institution shall report the exact disposition of the special allowance to the Legislative Joint Auditing Committee by July 1 of each year.

**History.** Acts 1995, No. 296, §§ 1-5.

**24-7-103. Payment of employer contribution rate.**

Local school districts shall pay the teacher retirement employer contribution rate for any eligible employee in accordance with rules and regulations established by the Board of Trustees of the Arkansas Teacher Retirement System.

**History.** Acts 1995, No. 1194, § 13.

**A.C.R.C. Notes.** As enacted, this section began: “Beginning with the 1996-97 school year.”

As enacted, this section ended: “Furthermore, beginning in the 1996-97 fiscal year, the appropriation contained herein

for Teacher Retirement Matching shall be used to provide the employer matching for employees of the Cooperative Education Services Areas, Vocational Centers and the school operated by the Department of Correction.”

**SUBCHAPTER 2 — ARKANSAS TEACHER RETIREMENT SYSTEM — GENERAL PROVISIONS**

- SECTION.  
24-7-201. Title.  
24-7-202. Definitions.  
24-7-203. Penalty.  
24-7-204. Tax status of system assets.

- SECTION.  
24-7-205. Adjustment of payment to correct error.  
24-7-206. Withholding association membership dues.



## SECTION.

24-7-207. Increase in benefit amount.  
 24-7-208. Benefit enhancements — Restrictions.

## SECTION.

24-7-209. Suspension of benefit payments upon request.

**Cross References.** Certain employees of educational institutions to be members of Public Employees' Retirement System, § 24-7-1002.

**Effective Dates.** Acts 1973, No. 427, § 11, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work irreparable harm upon the teachers of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided. "It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval."

Acts 1975, No. 549, § 16: Mar. 25, 1975.

Emergency clause provided: "It is hereby found and determined by the General Assembly that the unprecedented increase in the cost of living has resulted in a particular hardship to persons living on a fixed retirement income in the State of Arkansas; that it is essential to the health and well being of the retired and active schoolteachers of this State that the benefits received by them be increased immediately to offset this unusual cost of living increase and that this act should be given effect immediately in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clauses provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 105, § 4: Feb. 12, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Retired Teacher's Association has a comprehensive program for involving its members in community service, continuing education, and personal growth and development and that these activities are making a major contribution to the well being of many citizens of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from all and after its passage and approval."

Acts 1985, No. 805, § 12: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985."

Acts 1989, No. 376, § 4: Mar. 7, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Education Association/National Education Association Retired has a comprehensive program for involving its members in community service, continuing education, and personal growth and development and that these activities are making a major contribution to the well-being of many citizens of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 652, § 14: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 435, § 12: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that changed conditions have dictated that certain provisions of the Teacher Retirement law need to be revised and updated, that these

changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 897, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the education of the citizens of Arkansas will be served by allowing the service or employment with an educationally-related agency to be included within the provisions of the Teacher Retirement law; that the service with educationally-related agencies will be of no cost to the state or the System; and that the System laws should be revised to permit this service to be counted as System covered service credit to benefit Arkansas' children with the most effective education possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 460, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that current language in the federal Internal Revenue Code makes it imperative that changes be made in laws concerning the Teacher Retirement System; that those changes need to be made at the beginning of the state fiscal year on July 1st; and that these changes are essential to the continued efficient and effective operation of the Teacher Retirement System. Therefore, in order to maintain an effective administration of the System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 542, § 10: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that changing conditions have dic-



tated that certain provisions of the Teacher Retirement System law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 638, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that this act is essential to the continued operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1995."

Acts 1997, No. 142, § 8: July 1, 1997.

Acts 1997, No. 1064, § 5: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the current trend in government and school administration is to privatize more and more school services; that many school districts in Arkansas are following this privatization trend; that many employees of the school districts will go to work for those privatized enterprises; that it is in the best interest of State of Arkansas and its public schools to continue to allow these employees to remain members of the Teacher Retirement System; and that the best practices of fiscal management for the System require that this act be effective at the beginning of the fiscal year. Therefore, in order to accommodate the developing trends in school administration and sound fiscal administration, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 1137, § 9: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the Arkansas Public Employees' Retirement System and the Teacher Re-

tirement System were created to benefit the public employees and the employees of the public educational institutions and school districts of Arkansas; that increases in both the retirement system's asset values allow for increases in systems members' benefits; that most retirements under the Public Employees' Retirement System and the Teacher Retirement System are effective on July 1 and any delay in the effective date of this act beyond July 1, 1997 will cause an undue hardship in administering this act. Therefore, in order to promote the sound fiscal administration of State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 11, § 7: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly that the Teacher Retirement System law does not recognize certain payments made by schools to teaching personnel as salary payments as defined under the retirement law, that allowing a broader definition of salary will help members achieve higher salaries for credit in the retirement system, that by increasing the benefits to members, more educators will be encouraged to stay in the teaching career fields, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 29, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain Teacher Retirement System retirants, for personal reasons which they do not wish disclosed, may want to suspend their benefits, that providing retirants with this option leaves the system open to question about liability for these suspended benefits and the law needs clarification in this situation, and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year and therefore this act should take effect immediately at that time. Therefore, an



emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and

safety shall become effective on July 1, 1999.”

### 24-7-201. Title.

This act, which establishes the Arkansas Teacher Retirement System, may be cited as the “Arkansas Teacher Retirement System Act”.

**History.** Acts 1973, No. 427, § 1; 1975, No. 549, § 1; A.S.A. 1947, § 80-1436.

**Publisher’s Notes.** Acts 1977, No. 793, § 11(2), provided that §§ 24-2-201 — 24-2-206 should not apply to the Teacher Retirement System since the investment provisions of chapter 3 of this title are the sole and exclusive method and procedure

by which investments of the four named retirement systems may be made.

**Meaning of “this act”.** Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

### 24-7-202. Definitions.

As used in this act, unless the context otherwise requires:

(1) “Accumulated contributions” means the total of all amounts contributed by a member and standing to his credit in his individual account in the members’ deposit account, together with regular interest credited thereon;

(2) “Active member” means any member rendering service which is covered by the system;

(3) “Actuarial equivalent” means a benefit of equal reserve value;

(4) “Annuity” means an annual amount payable by the system in equal monthly installments throughout the life of a person or for a temporary period;

(5) “Beneficiary” means any person who is receiving or is designated to receive a system benefit by reason of the system membership of another person;

(6) “Benefit program” means a schedule of benefits or benefit formulas from which the amounts of system benefits can be determined;

(7) “Board” means the Board of Trustees of the Arkansas Teacher Retirement System;

(8) “Child of a member” means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter’s death, which permanent care status shall be determined by evidence satisfactory to the board;

(9) “Covered salary” means that portion, or all, of an employee’s salary which is covered by the system;

(10) “Credited service” means service which is creditable as service by the system;

(11) “Employee” means any person employed by a school in a regular or special position;

(12) "Employer" means any school, habilitative services corporation, or other educational agency participating in the system;

(13) "Employment with a school" means, beginning July 1, 1993:

(A) Employment with any of the following institutions or agencies:

(i) Arkansas School for the Blind;

(ii) Arkansas School for the Deaf;

(iii) Arkansas Activities Association;

(iv) A local school board;

(v) Chief county school officers;

(vi) The State Board of Education;

(vii) Regional education cooperatives;

(viii) The state Surplus Property Program; and

(ix) The Arkansas Teacher Retirement System;

(B) Employment in a position with any of the following organizations:

(i) Juvenile training schools;

(ii) The Arkansas Educational Television Commission; and

(iii) Area vocational-technical schools, except those employees of area vocational schools and the Department of Workforce Education who have elected to participate in an alternate retirement plan established by §§ 24-7-901, and 24-7-903 — 24-7-908;

(C) Employment by the Arkansas Rehabilitation Services or the Division of State Services for the Blind, except those employees who have elected to participate in the noncontributory plan of the Arkansas Public Employees' Retirement System;

(D) Employment in a position with an educationally related agency if the employee is or has been a member of the Arkansas Teacher Retirement System for a minimum of five (5) years and elects to become or remain a member of the system. The employment shall be related to the training of public school employees or school board members, or teaching public school students, or in adult education programs. The employment shall not be related in any manner to private schools. Such agency shall be approved according to rules and regulations established by the board, shall be considered an employer under § 24-7-202(12), and shall be responsible for all required employer contributions;

(E) Employment in an enterprise privatized by a public school district. If a public school district should privatize any of its services, any individual who is or was employed by the school district in one (1) of those services and who is or has been a member of the Arkansas Teacher Retirement System may elect to remain a member if the board determines pursuant to rules and regulations adopted by the board that the participation of these employees in the system will not in any way impair any legal status of the system, including, but not limited to, its status as a governmental plan pursuant to the federal Internal Revenue Code and the Employee Retirement Income Security Act of 1974 (ERISA), or have a substantial adverse impact on the actuarial soundness of the system and if the private provider as-

sumes all responsibility for the required employer contributions and any fees for obtaining Internal Revenue rulings or Employee Retirement Income Security Act of 1974 (ERISA) opinions; and

(F)(i) Employment in positions with educational nonprofit corporations associated with the Community Providers Association in Arkansas if the nonprofit corporation has elected to participate in the Arkansas Teacher Retirement System, and if the board determines pursuant to rules and regulations adopted by the board that their participation will not in any way impair any legal status of the system, including, but not limited to, its status as a governmental plan pursuant to the federal Internal Revenue Code and the Employee Retirement Income Security Act of 1974 (ERISA), or have a substantial adverse impact on the actuarial soundness of the system.

(ii) The employment shall be related to the training of public school employees or school board members, or teaching public school students, or in adult education programs.

(iii) The employment shall not be related in any manner to private schools.

(iv) Each nonprofit corporation shall be approved according to rules and regulations established by the board, shall be considered an employer under § 24-7-202(12), and shall be responsible for all required employer contributions and any fees for obtaining Internal Revenue rulings or Employee Retirement Income Security Act of 1974 (ERISA) opinions;

(14)(A)(i) "Final average salary" means, for a member who retires after June 30, 1997, the average of the annual salaries paid him during the period of not less than three (3) years nor more than five (5) years of credited service producing the highest annual average with the exact time period to be determined in accordance with the rules and regulations of the Board of Trustees of the Arkansas Teacher Retirement System as is actuarially appropriate for the system, subject to the provisions of subdivision (23)(A) of this section.

(ii) Prior to reducing the time period used to determine final average salary, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the committee.

(B) Should a member have less than the minimum of three (3) years of credited service, "final average salary" means the annual average of salaries paid him during his total years of credited service, subject to the provisions of subdivision (23)(A) of this section;

(15) "Inactive member" means any former active member who is no longer rendering service which is covered by the system and who is not a retirant;

(16) "Interest" means the rate or rates per annum, compounded annually, as the board shall adopt from time to time, that will be charged for the purchase of service credit or to repay a refund, but the rate shall equal no less than the system's current assumed interest rate assumption;



(17) "Member" means any person included in the membership of the system;

(18) "Nonteacher" means any employee except a teacher;

(19) "Regular interest" means the rate or rates per annum, compounded annually, that the board shall adopt from time to time, that will be used to compute interest on members' contributions;

(20) "Reserve" means the present value of all payments to be made on account of any system benefit based upon such reasonable tables of experience and regular interest as the board shall adopt from time to time;

(21) "Retirant" means a former member receiving a system annuity by reason of having been a member;

(22) "Retires" means the beginning of annuity payments to a retirant;

(23)(A)(i) "Salary" means the remuneration paid an employee in a position covered by the system and on which the employer withholds federal income tax.

(ii) Provided, however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an eligible employee is an individual who was a member of the system before the first plan year beginning after December 31, 1995.

(iii) However, when a member retires, the current year's salary used in the computation of retirement benefits shall not exceed one hundred ten percent (110%) of the previous year's salary, unless the increase is a direct result of a promotion, change in position, incremental increase provided in the school district salary schedule, or an increase in school revenues.

(B) Should a portion of an employee's remuneration be paid other than in cash, the cash value of the remuneration shall be established by the system in an amount not to exceed the amount the employee is required to report for federal income tax purposes.

(C)(i) In determining salary, employer pick-up contributions, cafeteria plans as defined in § 21-5-901, and employee contributions to tax-sheltered annuities shall be included.

(ii) Provided, however, a member may establish salary earned under a purchase service contract with a covered employer by paying employee and employer contributions plus interest.

(D) Money which is in lieu of remuneration and which is used by an employer to purchase a qualified tax-sheltered annuity or a life insurance policy for an employee shall be considered as salary for system purposes.

(E) An employee who is receiving remuneration under both a regular contract and a purchased contract or under both a regular contract and a contract won through litigation shall have only the

greater of the two (2) amounts considered as salary for system purposes.

(F) Should an employee make a charitable donation or return any part of his salary to his employer, the amount of his recurring remuneration otherwise usable as salary shall be reduced by such amount or amounts to arrive at his salary for system purposes.

(G) In case of any dispute concerning an employee's salary for system purposes, the system shall have the power to settle the dispute;

(24) "School" means any public school under the control of school authorities of the state and supported wholly or partially by state moneys;

(25) "Service" means employment rendered as an employee;

(26) "Social security" means the federal social security old age, survivors and disability insurance program;

(27) "State" means the State of Arkansas;

(28) "System" means the Arkansas Teacher Retirement System;

(29)(A) "Teacher" means, beginning July 1, 1989, any person employed by a school for the purpose of giving instructions and whose employment requires state certification.

(B) In any case of question as to who is a teacher, the board shall have the final power to decide the question; and

(30) "Trustee" means a member of the board.

**History.** Acts 1973, No. 427, § 2; 1983, No. 619, § 1; 1983, No. 665, § 1; 1985, No. 805, § 1; A.S.A. 1947, § 80-1437; Acts 1989, No. 652, § 1; 1989, No. 653, § 1; 1993, No. 435, § 1; 1993, No. 897, § 1; 1995, No. 460, § 1; 1995, No. 542, § 1; 1995, No. 638, §§ 1, 2; 1997, No. 142, § 1; 1997, No. 1064, § 1; 1997, No. 1137, § 3; 1999, No. 11, § 1; 1999, No. 865, § 3.

**Amendments.** The 1993 amendment by No. 435, in former (14), added the designations (14)(A)-(G); in former (14)(C), added "or stipends paid by an employer ... the amounts shall be cumulative" and made a minor stylistic change; and made minor punctuation changes in former (14)(F).

The 1993 amendment by No. 897 substituted "1993" for "1989" in the introductory language of former (8); made proper name corrections in former (8)(A)-(C); and added former (8)(D).

The 1995 amendment by No. 460 added former (14)(A)(i); and substituted "six hundred dollars (\$600)" for "five hundred dollars (\$500)" in former (14)(C).

The 1995 amendment by No. 542 substituted "six hundred dollars (\$600)" for "five hundred dollars (\$500)" in former (14)(C).

The 1995 amendment by No. 638 added former (14)(A)(ii); substituted "six hundred dollars (\$600)" for "five hundred dollars (\$500)" in former (14)(C); added the subdivision designations in former (16); substituted "1995" for "1983" in former (16)(A); and added "subject to the provisions of subdivision (14)(A) of this section" in former (16)(A) and (B).

The 1997 amendment by No. 1064 added former (8)(E) and (F).

The 1997 amendment by No. 142 added the last sentence to former (17).

The 1997 amendment by No. 1137 rewrote former (16)(A); and substituted "the minimum of three (3) years of credited service" for "five (5) years of credited service" in former (16)(B).

The 1999 amendment by No. 11, in present (23)(A)(i), deleted "recurring" preceding "remuneration," deleted "employee for personal services rendered by the" following "paid an" and added "and on which the employer withholds federal income tax"; rewrote present (23)(C); and made stylistic changes.

The 1999 amendment by No. 865 inserted "habilitative services corporation" in present (12).

**Meaning of "this act".** See note to § 24-7-201.

**U.S. Code.** The Social Security Act is codified as 42 U.S.C. § 301 et seq.

Section 401(a)(17) of the Internal Revenue Code referred to in this section is codified as 26 U.S.C. 401(a)(17).

The Employee Retirement Income Security Act of 1974, referred to in this section, is primarily codified as 26 U.S.C. § 401 et seq. and 29 U.S.C. § 1001 et seq.

### **24-7-203. Penalty.**

Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record or records in an attempt to defraud the Arkansas Teacher Retirement System shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law.

**History.** Acts 1973, No. 427, § 10; A.S.A. 1947, § 80-1444.

**Cross References.** Misdemeanors, § 5-1-107.

### **24-7-204. Tax status of system assets.**

The assets of the Arkansas Teacher Retirement System are exempt from taxes by the state, any political subdivision, or an agency thereof.

**History.** Acts 1973, No. 427, § 10; 1985, No. 486, § 4; A.S.A. 1947, § 80-1444.

**Cross References.** Income tax exemption for retirement or disability benefits, § 26-51-307.

## **CASE NOTES**

### **Constitutionality.**

Since court could reasonably conceive of lawful purposes for the state's classification scheme in providing tax exemption, this section was not arbitrarily enacted

and did not violate Ark. Const., Art. 2, § 18 and U.S. Const. Amend. 14, nor did it constitute special legislation. *Streight v. Ragland*, 280 Ark. 206, 655 S.W.2d 459 (1983).

### **24-7-205. Adjustment of payment to correct error.**

Should any change or error in the records result in any person's receiving from the Arkansas Teacher Retirement System more or less than he would have been entitled to receive had the records been correct, the Board of Trustees of the Arkansas Teacher Retirement System shall correct the error and, as far as practicable, shall adjust the payment in such manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

**History.** Acts 1973, No. 427, § 10; A.S.A. 1947, § 80-1444.

### **24-7-206. Withholding association membership dues.**

(a)(1) Upon receipt of a written request signed by a retiree who is receiving an annuity from the Arkansas Teacher Retirement System, the retirement system shall withhold membership dues of the Arkansas



Education Association/National Education Association Retired and the Arkansas Retired Teachers' Association from the monthly annuity checks of the retiree.

(2) The withholding request authorized by this section shall be on forms provided to retirees by the system.

(b) After a withholding request is received by the system and after withholding of a retiree's dues is started under the provisions of subsection (a) of this section, it shall be discontinued only upon receipt of a written notice of cancellation signed by the retiree.

(c) The system shall transmit all dues which are withheld under the provisions of this section to the Arkansas Education Association/National Education Association Retired and the Arkansas Retired Teachers' Association after each monthly payroll is made to retirees.

**History.** Acts 1985, No. 105, §§ 1-3; A.S.A. 1947, §§ 80-1475 — 80-1477; Acts 1989, No. 376, § 1.

#### **24-7-207. Increase in benefit amount.**

(a) The Board of Trustees of the Arkansas Teacher Retirement System is authorized by this act to raise the level of benefits to the current retirants and other beneficiaries of the Arkansas Teacher Retirement System to a comparable level increase to match the increase in benefits that would accrue to active members as a result of any reduction of the calculation of "final average salary" to not less than a three-year period nor more than the five-year period in accordance with any rules and regulations the board might promulgate.

(b) The amount of any increase for retirants and other beneficiaries shall also be determined in accordance with the rules and regulations of the board as is actuarially appropriate for the system.

**History.** Acts 1997, No. 1137, § 4.

**A.C.R.C. Notes.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901,

24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**Meaning of "this act".** Acts 1997, No. 1137, codified as §§ 24-3-102(8), 24-4-101(4), 24-7-202(14), 24-7-207, 24-7-208.

#### **24-7-208. Benefit enhancements — Restrictions.**

(a) No benefit enhancement provided for by this act shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by this act shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 1137, § 5.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901,

24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**Meaning of “this act”.** See note to § 24-7-207.

**24-7-209. Suspension of benefit payments upon request.**

(a) Notwithstanding any other provision of the Arkansas Teacher Retirement System, a person entitled to receive an annuity may submit a request to the system in writing, for personal reasons and without disclosure thereof, to suspend the payment of all the benefit otherwise payable to him by the system.

(b) Upon receipt of the request, the system shall authorize the suspension, and the person shall be deemed to have forfeited all rights to the benefit so suspended but shall have the right to have the full benefit otherwise payable reinstated as to future monthly payment upon written notice to the system to revoke the prior request for suspension under this section.

**History.** Acts 1999, No. 29, § 1.

**SUBCHAPTER 3 — ARKANSAS TEACHER RETIREMENT SYSTEM — BOARD OF TRUSTEES**

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|--|--|
| SECTION.   | SECTION.                               |
| 24-7-301. Members.                                       | 24-7-304. Meetings.                    |
| 24-7-302. Term of office and vacancies.                  | 24-7-305. Duties and responsibilities. |
| 24-7-303. Officers — Professional and clerical services. |  |

**Effective Dates.** Acts 1973, No. 427, § 11, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work irreparable harm upon the teachers of this

State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and

this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval."

Acts 1983, No. 126, § 4: Feb. 8, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the services of a Board of Trustees that is representative of both active and retired teachers is essential to orderly and effective management of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1987, No. 4, § 6: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1991, No. 43, § 11: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public

pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1995, No. 523, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that it is unnecessary for the Board of Trustees to have an ex officio member present to conduct business and that it will improve the operation of the Teacher Retirement System to make this change in the law. Therefore, in order to improve System operations, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 418, § 7: Mar. 10, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that various terms of the members and retirants trustees on the Teacher Retirement Board of Trustees need revision;



that these differences in terms create an inequitable situation on the Board; that eliminating this inequity is essential to the administration of the retirement system; and it necessary to begin the terms of these members at prescribed times and this act should be given effect immediately. Therefore, in order to restore equity among the groups under the System's Board, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 555, § 17: Mar. 12, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the state needs to assure that the system is able to provide the best possible benefits, including safe, adequate, and affordable facilities, for the system's members and that several changes in, and clarification of, existing laws are immediately necessary in order for the system to continue to efficiently, effectively and timely administer the member's retirement benefits. Therefore, an emergency is declared to

exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 866, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system, that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort, that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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### 24-7-301. Members.

The general administration and responsibility for the proper operation of the system and for making effective the provisions of this act are vested in a board of trustees of fifteen (15) persons as follows:

(1) The Bank Commissioner, the Treasurer of State, the Auditor of State, and the Director of the Department of Education shall be ex officio trustees;

(2)(A) Seven (7) members shall be elected member trustees, each of whom shall have at least five (5) years of credited service in force and be an active member. For the purpose of this section and § 24-7-302, participants in the Teacher Deferred Retirement Option Plan shall be considered active members.

(B) Four (4) member trustees shall be employed in a position which requires state certification, but not an administrator's certificate. One (1) member trustee will be elected from each of the four (4)

congressional districts. The four (4) member trustees shall be elected by the members employed in positions which require state certification, but not an administrator's certificate.

(C) Two (2) member trustees shall be employed in a position requiring an administrator's certificate, one (1) of whom must be a superintendent. These two (2) member trustees shall be elected by members employed in positions requiring administrator certification.

(D) One (1) member trustee shall be employed in a position not requiring state certification. This member trustee shall be elected by members employed in positions not requiring state certification;

(3) One (1) trustee shall be a person of a minority racial ethnic group who is either an active or retired member of the Arkansas Teacher Retirement System and shall be elected from the active and retired membership of the system;

(4)(A) Three (3) retirants shall be elected retirant trustees by the retirees of the system.

(B) Each retirant trustee shall be a retirant with an annuity being paid by the system at the beginning of his term of office; and

(5) The member and retirant trustees shall be elected in accordance with such rules and regulations as have been adopted by the board to govern the elections.

**History.** Acts 1973, No. 427, § 3; 1983, No. 126, § 1; A.S.A. 1947, § 80-1438; Acts 1995, No. 523, § 1; 1997, No. 418, § 1; 1999, No. 866, § 1.

**Amendments.** The 1995 amendment substituted "thirteen (13) persons" for "twelve (12) persons" in the introductory paragraph; substituted "the Treasurer of State, the Auditor of State, and the Director of General Education" for "the State Treasurer, and the State Director of Education" in (1)(A); added (1)(B); and added the subdivision designations in (2) and (3).

The 1997 amendment rewrote this section.

The 1999 amendment redesignated former (2)(A)(i) through (2)(A)(iii) as present (2)(B) through (2)(D), redesignated former (2)(A)(iv) as present (3), and redesignated former (3) and (4) as present (4)(A), (4)(B) and (5); substituted "Seven (7) members" for "Eight (8) members" in (2)(A); made a related change; and made stylistic changes.

**Meaning of "this act".** Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

## **24-7-302. Term of office and vacancies.**

(a)(1) The term of office of each member and retirant trustee elected after July 1, 1997, shall be six (6) years.

(2) A member trustee shall be ineligible to serve after becoming inactive or upon retiring. A retirant trustee shall be ineligible to serve after becoming active.

(3) Each trustee shall continue to serve until his successor is elected and has qualified.

(b)(1) In the event any member trustee fails to attend three (3) consecutive meetings of the Board of Trustees of the Arkansas Teacher Retirement System, unless in each case excused for cause by the remaining trustees attending the meetings, he shall be considered to

have resigned from the board, and the board shall by resolution declare his office of trustee vacated.

(2) If a vacancy occurs in the office of member or retirant trustee, the remaining trustees shall fill the vacancy for the remainder of the unexpired term.

**History.** Acts 1973, No. 427, § 3; 1983, No. 126, § 2; A.S.A. 1947, § 80-1438; Acts 1991, No. 43, § 1; 1997, No. 418, § 2.

**Publisher's Notes.** Acts 1983, No. 126, § 2, provided, in part, that the term of office of each member trustee in office on July 1, 1983 should continue to the expiration of his term; the terms of the

retirant trustees are arranged so that one term expires every year.

**Amendments.** The 1997 amendment, in (a)(1), inserted "and retirant"; inserted "elected after July 1, 1997; substituted "six (6) years" for "five (5) years"; and substituted the present two sentences for the former sentence in (a)(2).

### 24-7-303. Officers — Professional and clerical services.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall select from its own number a chairman and a vice chairman.

(b) The trustees shall serve as trustees without compensation for their services as such, except that each trustee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) The board shall appoint the executive director of the system, and he shall serve as its chief executive officer. He shall perform, or cause to be performed, such duties as are required of him under this act and as the board shall delegate to him.

(d) The board shall appoint an actuary or a firm of actuaries to be technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary shall perform such duties as are required of him under this act and as are required of him by the board from time to time.

(e)(1) The board shall appoint a professional investment counsel to be investment advisor to the board.

(2) No investment shall be made by the board until it has received the advice of its investment advisor. Provided, however, if the contemplated investment involves anything other than financial assets, as defined in § 4-8-102(a)(9), then in lieu of seeking advice from its investment advisor, the board shall seek and receive advice from a person having recognized expertise with respect to the type of investment contemplated.

(f) The board shall appoint a medical committee consisting of three (3) physicians.

(g) The executive director shall have the authority to employ such other professional and clerical services and to purchase such equipment and supplies as are required for the proper operation of the system, subject to the approval of the board.

(h)(1) The compensation of the persons engaged by the board shall be consistent with the pay plan of the state.



(2) All other expenses of the board necessary for the operation of the system shall be paid at such rates and in such amounts as the board shall approve.

**History.** Acts 1973, No. 427, § 3; A.S.A. 1947, § 80-1438; Acts 1997, No. 250, § 231; 1999, No. 555, § 12.

**Publisher's Notes.** The reimbursement provision in subsection (b) of this section may be affected by § 25-16-802 and § 25-16-901 et seq. concerning mileage reimbursement for members of state boards and commissions.

**Amendments.** The 1997 amendment rewrote (b).

The 1999 amendment added the proviso in (e)(2); and made stylistic changes.

**Meaning of "this act".** See note to § 24-7-301.

**Cross References.** Investments, § 24-3-401 et seq.

### 24-7-304. Meetings.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall hold regular meetings at least quarterly.

(b) Eight (8) trustees constitute a quorum at any meeting of the board.

(c) Each trustee shall be entitled to one (1) vote on each question before the board, and at least eight (8) concurring votes shall be required for a decision by the board at any meeting.

(d) The board shall adopt its own rules of procedure and shall keep a record of its proceedings.

(e) All meetings of the board shall be public.

**History.** Acts 1973, No. 427, § 3; A.S.A. 1947, § 80-1438; Acts 1987, No. 4, § 1; 1995, No. 523, § 2; 1997, No. 418, § 3.

**Amendments.** The 1995 amendment, in (b), substituted "Seven (7) trustees" for "Six (6) trustees" and inserted "or his designee"; and substituted "seven (7) concurring votes" for "six (6) concurring votes" in (c).

The 1997 amendment, substituted "Eight (8) trustees" for "Seven (7) trustees, of whom at least one (1) shall be an ex officio trustee or his designee" in (a); substituted "eight (8) concurring votes" for "seven (7) concurring votes" in (c).

### 24-7-305. Duties and responsibilities.

(a)(1) Both the contributory plan provided by this act and the noncontributory plan established by §§ 24-7-401 — 24-7-411 and 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716 shall be under the administration and control of the Board of Trustees of the Arkansas Teacher Retirement System as provided by § 24-7-301.

(2) It is the intent of the General Assembly that neither the composition, responsibilities, nor authority of the board be changed as a result of §§ 24-7-401 — 24-7-411 and 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716.

(b) The board shall adopt from time to time such reasonable mortality and other tables of experience, and a rate or rates of regular interest, as shall be necessary for the actuarial requirements of the Arkansas Teacher Retirement System.

(c) The executive director shall keep, or cause to be kept, in convenient form such data as shall be necessary for actuarial investigations of the experiences of the system, and such data as shall be necessary for annual actuarial valuations of the system.

(d)(1) The board shall annually, not later than April 1 of each year, render a report to each employer showing the financial condition of the system as of the preceding June 30.

(2) The report shall contain, but shall not be limited to:

(A) A financial balance sheet;

(B) A statement of income and disbursements;

(C) A detailed statement of investments acquired and disposed of during the year, together with a detailed statement of the annual rates of investment income from all assets and from each type of investment;

(D) An actuarial balance sheet prepared by means of the last valuation of the system; and

(E) Such other data as the board shall deem necessary to comply with § 24-3-104.

(3) In addition to the distribution of the report provided by this subsection, it shall also be distributed to the Legislative Council and the Governor as provided by § 24-3-104.

(e) All records of the system shall be kept and maintained in the office of the system.

(f)(1) The board shall arrange for adequate surety bonds covering the executive director and any other custodian of the funds or investments of the board.

(2) When approved by the board, the bonds shall be deposited in the office of the Treasurer of State.

(g) The records and accounts of the system shall be audited by the audit division of the General Assembly.

(h) The headquarters of the system shall be in Little Rock.

**History.** Acts 1973, No. 427, § 3; 1983, No. 619, § 2; 1983, No. 665, § 2; 1985, No. 504, § 1; A.S.A. 1947, § 80-1438; Acts 1993, No. 403, § 18.

**A.C.R.C. Notes.** The operation of subsection (f) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursu-

ant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

**Amendments.** The 1993 amendment substituted "the Governor" for "Legislative Joint Auditing Committee" in (d)(3).

**Meaning of "this act".** See note to § 24-7-301.

#### SUBCHAPTER 4 — ARKANSAS TEACHER RETIREMENT SYSTEM — FUNDS AND MANAGEMENT OF ASSETS

##### SECTION.

24-7-401. Effectuation of financial objective.

24-7-402. Assets as trust fund — Custodian.

24-7-403. Restrictions on use of assets.

##### SECTION.

24-7-404. Default where issuer receives money from State of Arkansas.

24-7-405. Retirement fund assets accounts generally.

## SECTION.

- 24-7-406. Retirement fund assets accounts — Members' deposit account — Contributions.
- 24-7-407. Retirement fund assets accounts — Employer accumulation account.
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## SECTION.

- 24-7-409. Retirement fund assets accounts — Survivor benefit account.
- 24-7-410. Retirement fund assets accounts — Income-expense account.
- 24-7-411. Compelling payment upon delinquency of employer.

**Effective Dates.** Acts 1973, No. 427, § 11, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work irreparable harm upon the teachers of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force from and after its passage and approval."

Acts 1975, No. 381, § 3: Mar. 12, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that flexibility in the investments available to the respective publicly-supported retirement systems in this State is essential to enable such retirement systems to obtain dependable income yields from investments; and that the immediate passage of this Act is necessary to enable the Boards of Trustees of the retirement systems to invest funds in subordinated debt securities of federally insured savings and loan associations in this State. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 549, § 16: Mar. 25, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the unprecedented increase in the cost of living has resulted in a particular hardship to persons living on a fixed retirement income in the State of Arkansas; that it is essential to the health and well being of the retired and active schoolteachers of this State that the benefits received by them be increased immediately to offset this unusual cost of living increase and that this act should be given effect immediately in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 793, § 12: July 1, 1977. Emergency clause provided: "It is hereby



found and determined by the General Assembly that the establishment of a uniform retirement policy for the State of Arkansas is essential to maintain employee morale and a stable and improved retirement system commensurate with the ability of the taxpayers of this State to finance, yet without jeopardizing retirement benefits of persons now employed by the State who do not elect to participate in the new retirement plan. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 681, § 14: Apr. 2, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 365, § 9: Mar. 9, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clauses provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that

such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 805, § 12: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985."

Acts 1989, No. 472, § 4: Mar. 10, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the effectiveness of this Act is essential to the operation of the Teacher Retirement System; that in order for the 77th General Assembly to set the rate of employer contribution for the Teacher Retirement System for the next biennial period, it is necessary that this act become effective immediately upon its passage and approval. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and upon its passage and approval."

Acts 1989, No. 652, § 14: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full

force and effect from and after July 1, 1989.”

Acts 1991, No. 14, § 5: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991.”

Acts 1991, No. 17, § 5: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that the amendments herein are essential to the continued operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1991.”

Acts 1991, No. 43, § 11: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991.”

Acts 1991, No. 431, § 6: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that the effectiveness of this act on July 1, 1991, is essential to the sound funding of the Teacher Retirement System and the Public Employees’ Retirement System; that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1,

1991, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991.”

Acts 1993, No. 300, § 5: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly that the change in the procedure for imposing late penalties on participating employers who are habitually late in making remittances to the Teacher Retirement System need to be updated and made stricter and that the change in the law is essential to the continued efficient operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1993, No. 435, § 12: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly that changed conditions have dictated that certain provisions of the Teacher Retirement law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1995, No. 460, § 6: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that current language in the federal Internal Revenue Code makes it imperative that changes be made in laws concerning the Teacher Retirement System; that those changes need to be made at the beginning of the state fiscal year on July 1st; and that these changes are essential to the continued efficient and effective operation of the Teacher Retirement System. Therefore, in order to maintain an



effective administration of the System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 542, § 10: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that changing conditions have dictated that certain provisions of the Teacher Retirement System law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 206, § 5: July 1, 1997. Emergency clause provided: "Emergency. It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the current language in the federal Internal Revenue Code makes it imperative that changes be made in laws of the Teacher Retirement System regarding employee contributions for income tax treatment purposes to save the members' money; that administrative efficiency dictates those changes be made at the beginning of the state fiscal year on July 1st; and that these changes are essential to the protect the financial interests of the membership of the Teacher Retirement System. Therefore, in order to protect the members of the System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 393, § 5: July 1, 1997. Emergency clause Provided: "It is hereby found and determined by the Eight-First General Assembly of the State of Arkansas that this amendment to the Arkansas Teacher Retirement System laws is essential to the equitable administration of the filing of contributory and noncontributory elections for active members of the System and it is essential for this act to be

effective immediately as the State's fiscal year begins. Therefore, in order to promote equitable situations in the Teacher Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 11, § 7: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly that the Teacher Retirement System law does not recognize certain payments made by schools to teaching personnel as salary payments as defined under the retirement law, that allowing a broader definition of salary will help members achieve higher salaries for credit in the retirement system, that by increasing the benefits to members, more educators will be encouraged to stay in the teaching career fields, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 81, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System provides members with the option to choose either a contributory or noncontributory membership, that keeping track of these options consumes a considerable amount of administrative time and effort, that the law needs to be simplified to reduce the cost and effort of keeping track of these options, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 864, § 6: Mar. 25, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System currently provides



members with noncontributory retirement service credit; that some members need to have contributory service credit to provide for an adequate retirement; and that providing for a change to contributory credited service will improve the motivation and effectiveness of the active teachers in Arkansas public schools. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 907, § 8: July 1, 1999. Emergency clause provided: "It is found and determined by the Eighty Second General Assembly of the State of Arkansas that the Teacher Retirement System provides members with the option to choose either a contributory or noncontributory membership, that Act 81 of 1999 will end this option and that some members need to have option restored to them, and that since Act 81 of 1999 will go into effect on July 1, 1999 then this act should be effective at the same time in order to avoid any statutory ambiguity. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

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#### **24-7-401. Effectuation of financial objective.**

(a)(1) The financial objective of this act is to establish contribution rates which, expressed as percentages of active member payroll, will remain approximately level from generation to generation of Arkansas citizens.

(2) The contribution rates shall be sufficient to provide that employer contributions each year, together with member contributions, shall be sufficient both to fully cover the costs of benefit commitments being made to members for their service being rendered in each year and to make a level payment which, if paid annually over a reasonable period of future years, will fully cover the unfunded costs of benefit commitments for service previously rendered.

(b) An actuarial valuation of the entire Arkansas Teacher Retirement System shall be made at least annually by the Board of Trustees of the Arkansas Teacher Retirement System's actuary.

(c)(1)(A) The financial objective of this act shall be maintained for each fiscal year, and the state employer contribution rate shall be expressed as a percent of active member payroll for each fiscal year.

(B) The state employer contribution rate shall be established for fiscal years beginning July 1, 1989, and thereafter, by the General Assembly upon the advice of the Joint Interim Committee on Retirement and Social Security Programs. In determining such advice, the committee shall use the following input:

(i) The recommendation of the board based upon consultation with the board's actuary; and

(ii) Information furnished by an actuary retained by the committee.

(C) The employer contribution rate shall be such that the amortization period for all unfunded liability shall not exceed thirty (30) years.

(2) For each fiscal year beginning July 1, 1993, or later, the dollar amount of state employer contributions to be paid during the fiscal year shall be the lesser of the result of multiplying the applicable percent of active member payroll for the fiscal year by the total covered salaries during the fiscal year, including any required prior year reported salaries, of members whose positions are financed by the Public School Fund, taking the result to the nearest dollar, or the amount appropriated by the General Assembly during each biennium.

(3) The percent of active member payroll to be paid in each year of the biennium shall be adjusted to reflect any benefit changes.

(d)(1) The board shall certify annually to the Treasurer of State the amounts calculated at the rate established by law or appropriated, whichever is less, for employer contributions to be paid by the state, which contributions shall be paid from the Public School Fund or federal funds administered by the State Board of Education.

(2) The Treasurer of State is authorized and directed to pay the system the state's employer contributions for each fiscal year, as follows: Ten million dollars (\$10,000,000) on or before September 1 of the fiscal year and, on or before the first day of each succeeding month, at least ten percent (10%) of the remainder due until there is no remainder due at the end of the fiscal year.

(e)(1) The annual employer contributions to be paid in each year beginning July 1, 1975, for all other employees by each other employer shall be the most current state contribution percent multiplied by the total covered salaries in the current fiscal year of the employer's members.

(2) For purposes of this subsection, "state contribution percent" means, for a fiscal year, including any required prior year reported salaries, the result of dividing the dollars of the state's employer contributions for the fiscal year by the total covered salaries for the fiscal year of members employed by the public school districts, by the system, and by the General Education Division of the Department of Education whose positions are financed by the Public School Fund, taking the result to the nearest one-tenth of one percent (0.1%).

(3) The annual employer contributions to be paid in each year beginning July 1, 1977, for all employees by each other employer shall be computed in the manner prescribed in subsection (c) of this section.

(4) The employer's contributions shall be remitted to the system in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall prescribe from time to time.

(5) Timely payment of the contributions shall be a condition of continuance of participation in the system.

§ 80-1442; Acts 1989, No. 472, § 1; 1991, No. 17, § 1; 1991, No. 431, § 2; 1993, No. 435, §§ 2, 3.

**Amendments.** The 1993 amendment made a minor punctuation change in (c)(1)(A); in (c)(2), substituted "July 1, 1993" for "July 1, 1991," inserted "the lesser of," added "or the amount appropriated by the General Assembly during each biennium," and made a minor stylistic

change; substituted "Treasurer of State" for "State Treasurer" in (d)(1) and (d)(2); and inserted "or appropriated, whichever is less" in (d)(1).

**Meaning of "this act".** Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

#### **24-7-402. Assets as trust fund — Custodian.**

(a) All assets of the Arkansas Teacher Retirement System shall constitute a single trust fund, and the Board of Trustees of the Arkansas Teacher Retirement System shall be the trustees of the fund.

(b) The custodian of system assets shall be the Treasurer of State, who shall act in accordance with the instructions of the board.

**History.** Acts 1973, No. 427, § 7; 1975, No. 381, § 2; 1975, No. 839, § 2; 1977, No. 793, § 11; A.S.A. 1947, § 80-1441.

#### **24-7-403. Restrictions on use of assets.**

(a) All assets of the Arkansas Teacher Retirement System shall be held for the sole purpose of paying benefits and making disbursements in accordance with the provisions of this act and shall be used for no other purpose whatsoever, unless the assets are used to purchase or construct a building to be used for the permanent offices of the system upon approval of the Board of Trustees of the Arkansas Teacher Retirement System.

(b) Except as to the rights of a member, retirant, or beneficiary, no trustee and no officer or employee of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the board. Nor shall any of them, directly or indirectly, for himself or as an agent, in any manner use the assets of the system except to make such current and necessary payments as are authorized by the board; nor shall any of them become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

**History.** Acts 1973, No. 427, § 7; 1975, No. 381, § 2; 1975, No. 839, § 2; 1977, No. 793, § 11; A.S.A. 1947, § 80-1441; Acts 1989, No. 652, § 2.

**Meaning of "this act".** See note to § 24-7-401.

#### **24-7-404. Default where issuer receives money from State of Arkansas.**

In the event of default in payment of the principal or interest of any investment obligation held by the Arkansas Teacher Retirement System where the issuer of the obligation receives moneys from the State of Arkansas, the default shall be certified by the Board of Trustees of the Arkansas Teacher Retirement System to the Treasurer of State, who



shall withhold all moneys due the issuer from the State of Arkansas until the default, together with regular interest thereon, is satisfied.

**History.** Acts 1973, No. 427, § 7; 1975, No. 381, § 2; 1975, No. 839, § 2; 1977, No. 793, § 11; A.S.A. 1947, § 80-1441.

#### **24-7-405. Retirement fund assets accounts generally.**

All the assets of the Arkansas Teacher Retirement System shall be recorded in five (5) accounts, namely:

- (1) The members' deposit account;
- (2) The employer accumulation account;
- (3) The retirement reserve account;
- (4) The survivor benefit account; and
- (5) The income-expense account.

**History.** Acts 1973, No. 427, § 8; A.S.A. 1947, § 80-1442.

#### **24-7-406. Retirement fund assets accounts — Members' deposit account — Contributions.**

(a)(1) The members' deposit account shall be the account in which shall be accumulated at regular interest the members' contributions to the Arkansas Teacher Retirement System and from which shall be paid refunds of accumulated contributions and transfers as provided in this act; however, employer contributions which are paid by an employee instead of an employer shall be credited to the members' deposit account. Those contributions shall be subject to refund under the same conditions that regular member contributions are refundable.

(2) Upon a member's retirement, his accumulated contributions standing to his credit in the members' deposit account shall be transferred to the retirement reserve account.

(3) In the event survivor benefits become payable on account of the death of a member, his accumulated contributions standing to his credit in the members' deposit account shall be transferred to the survivor benefit account.

(b)(1) Except as provided otherwise in this section, the contributions of a member to the system shall be the amounts set forth in this subsection.

(2) Each member who first became a member July 1, 1971, or later shall contribute to the system six percent (6%) of his salary.

(3) Member contributions before July 1, 1969, shall be in accordance with provisions in force before July 1, 1969.

(4)(A) For each member who first became a member before July 1, 1971, member contributions for the period after June 30, 1969, shall be six percent (6%) of the first seven thousand eight hundred dollars (\$7,800) of his annual salary, unless he shall have elected, in accordance with rules and regulations established by the Board of

Trustees of the Arkansas Teacher Retirement System, to contribute six percent (6%) of his full salary for the period after June 30, 1969.

(B) If the election is made before July 1, 1984, the member must contribute to the system the difference between full salary member contributions and member contributions based on seven thousand eight hundred dollars (\$7,800) annual covered salary retroactive to July 1, 1969, or to the actual date of employment, whichever is later, plus regular interest from the dates the added contributions would normally have been received by the system to the date of the actual added contributions.

(C) If the election is made July 1, 1984, or later, the member must contribute to the system both the added member contributions and the added employer contributions which would have been paid to the system had the member's full salary always been covered, plus regular interest from the dates the added contributions would normally have been received by the system to the date of the actual added contributions.

(D) The regular interest and added employer contributions shall be considered member contributions for purposes of the system; provided, however, that any former active member who returns to covered employment on or after July 1, 1995, and who elects to make contributions to the system, shall contribute on his full salary.

(5) Members who left covered employment before July 1, 1985, and who had annual compensation of seven thousand eight hundred dollars (\$7,800) or less shall, upon their return to covered employment, have full salary considered for purposes of the system.

(6) Contributions shall be required on all salary earned in covered employment during the fiscal year in which membership begins.

(c)(1)(A)(i) Each employer shall deduct the member contributions provided for in this section from the salary of each member on each and every payroll, for each and every payroll period, from the date of his entrance into the system until he retires, and the employer shall remit the contributions to the system.

(ii) Provided, however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995.

(B) Provided, further, that a member who is receiving remuneration under both a regular contract and a purchased contract, or under both a regular contract and a contract won through litigation, shall have only the greater of the two (2) amounts considered as salary for the purposes of the system.

(C)(i) Should the employer fail at any time to report the salary of a member and remit the contributions to the system, the system shall

have the right to collect from the employee and the employer the contributions due, if any, from each, together with regular interest beginning with the subsequent fiscal year.

(ii) Provided further, in no case shall a member be given credit for service rendered until any contributions and interest due from each are paid in full.

(2) The member's contributions provided for in this section shall be made notwithstanding that the minimum salary provided by law for any member shall be thereby changed.

(3)(A) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(B) Payment of his salary less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by the payment, except as to benefits provided by the system.

(4) The members' contributions, so deducted from their salaries, shall be remitted to the system in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall prescribe from time to time.

(d)(1) In addition to the contributions deducted from the salaries of a member, as provided in this section, a member may deposit in the system, by a single contribution or by an increased rate of contributions as approved by the board, the amounts he may have received therefrom and not repaid thereto, together with regular interest from the date of withdrawal to the date of repayment.

(2) In no case shall a member be given credit for service rendered prior to the date he received payments until he returns to the system all amounts due from him.

(e)(1) A retirant may elect to make additional contributions to the system in order to provide himself with additional benefits if he retired after June 30, 1970, and is still receiving a system annuity and he had not contributed on his full salary for the period after June 30, 1969.

(2) By written election made after June 1, 1981, the retirant may contribute on his full salary in the same manner as provided in subsection (b) of this section for members, but regular interest must be added to the additional contributions for the period from the date the relevant salary was paid to the date the contributions are received by the system.

(3) When the contributions and interest are received, the monthly annuity of the retirant shall be recalculated to be the annuity amount which would be payable if the contributions had all been paid by the effective date of retirement.

(4) The resulting increase in the monthly annuity shall be effective for the calendar month after the date the payment of contributions and interest is completed.

(f)(1) Active members as of July 1, 1999, shall elect by written election filed with the system in accordance with rules and regulations



adopted by the board to eliminate future member contributions or to make member contributions, otherwise provided for in this section. The election shall be irrevocable and shall be made on or before July 1, 2000. If no election is made, the member's status on June 30, 2000, shall be in effect and shall be irrevocable.

(2) For a former inactive member, the election shall be made within one (1) year of the effective date the member is considered an active member. The election shall be effective the earlier of the preparation of the payroll containing the first salary payment upon reentry or the July 1 next following the date the election is filed with the system. If no election is made within one (1) year, the member's status prior to reentry will remain in effect.

(3)(A)(i) If the election is to eliminate member contributions, then the election shall apply only to future member salaries and shall not change the status of any member contributions made before the election.

(ii) Beginning July 1, 1999, an active member who has previously elected to eliminate member contributions may change credited service on which no member contributions have been paid to member contributions credited service, by paying the additional member contributions due plus interest from the dates the contributions would have been received by the system to the date of the payment in full.

(B)(i) If the effect of the election is to require member contributions, then the election shall apply only to future member salaries and shall not change any member contribution requirements existing before the election.

(ii) If a member has previously contributed on only the first seven thousand eight hundred dollars (\$7,800) of his annual salary, he cannot contribute on full future salaries until he has made added contributions on past full salaries as provided in subsection (b) of this section.

(4) After July 1, 1999, all new members shall make the member contributions otherwise provided for in this section. Provided, however, new members who are under contract with a covered employer for one hundred eighty (180) days or less shall have one (1) year to make an irrevocable election to make member contributions. New members who are not under contract with a covered employer shall not make member contributions.

(g)(1) Employees who are eligible for membership in the system under § 24-7-202, who are or have been erroneously enrolled in the Arkansas Public Employees' Retirement System, whose membership in that system is cancelled and whose employee or employer contributions are refunded by that system under §§ 24-2-301 — 24-2-305, shall make member contributions to the system as provided in subdivision (b)(2) of this section.

(2) If such an employee becomes an active member of the contributory plan of this system, he may establish contributory credit for all or

part of his service that is cancelled by the system by paying both the employee and employer contributions required by this system plus regular interest.

(h)(1) Each employer shall pay the member contributions required by this section for each salary earned by a member after June 30, 1997, and those contributions shall then be treated as employer contributions in determining tax treatment under the provisions of the Internal Revenue Code and the Income Tax Act of 1929, § 26-51-101 et seq.

(2) Provided, however, each employer shall continue to withhold federal and state income taxes based upon those contributions as income of the member until the federal Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the Internal Revenue Code, the contributions shall not be included as gross income of the member until they are distributed or made available to the member.

(3) The employer shall pay these member contributions from the same source of funds used in paying the salary to the member. The employer may pay these contributions by a reduction in the cash salary of the member, or by a setoff against future salary increases, or by a combination of a reduction in salary and a setoff against future salary increases.

(4) If member contributions are paid by the employer as provided under this subsection, they shall be treated for all purposes of the Arkansas Teacher Retirement System in the same manner and to the same extent possible as member contributions made prior to the date the employer began payment of the member's contributions hereunder.

**History.** Acts 1973, No. 427, § 8; 1975, No. 549, § 4; 1977, No. 541, § 3; 1981, No. 365, § 4; 1981, No. 435, § 1; 1983, No. 619, § 7; 1983, No. 665, § 7; 1985, No. 504, § 2; 1985, No. 805, § 5; A.S.A. 1947, § 80-1442; Acts 1989, No. 821, § 8; 1989, No. 652, § 3; 1991, No. 14, § 1; 1991, No. 43, § 2; 1993, No. 435, §§ 4, 5; 1995, No. 460, § 2; 1995, No. 542, §§ 2, 3; 1997, No. 206, § 1; 1997, No. 393, § 1; 1999, No. 11, § 2; 1999, No. 81, §§ 1, 2; 1999, No. 864, § 1; 1999, No. 907, §§ 1, 2, 4.

**A.C.R.C. Notes.** As enacted, the 1991 amendment in (f)(5) took effect "beginning July 1, 1991."

Acts 1999, No. 81, §§ 1 and 2 were repealed by Acts 1999, No. 907, § 4.

Acts 1999, No. 81, § 1, amended (f) and (g) to read as follows: "(f)(1) Active members as of July 1, 1999, shall elect by written election filed with the system in accordance with rules and regulations adopted by the board to eliminate future member contributions or to make member contributions otherwise provided for in this section. The election shall be irrevocable and shall be made on or before July 1, 2000. If no election is made, the member's status on June 30, 2000, shall be in effect and shall be irrevocable.

"(2) For a former inactive member, the election shall be made within one (1) year of the effective date the member is considered an active member. The election shall be effective the earlier of the preparation of the payroll containing the first salary payment upon re-entry or the July 1 next following the date the election is filed with the system. If no election is made within one (1) year, the member's status prior to reentry will remain in effect.

"(3)(A) If the election is to eliminate member contributions, then the election shall apply only to future member salaries and shall not change the status of any member contributions made before the election. If the election is to eliminate member contributions, then the election shall apply only to future member salaries and shall not change the status of any member contributions made before the election.

“(B)(i) If the effect of the election is to require member contributions, then the election shall apply only to future member salaries and shall not change any member contribution requirements existing before the election.

“(ii) If a member has previously contributed on only the first seven thousand eight hundred dollars (\$7,800) of his annual salary, he cannot contribute on full future salaries until he has made added contributions on past full salaries as provided in subsection (b) of this section.

“(4)(A) After July 1, 1999, all new members shall make the member contributions otherwise provided for in this section.

“(B) After July 1, 1999, an employee who worked less than thirty (30) days during the previous fiscal year shall not make member contributions as provided in this section.

“(g)(1) Employees who are eligible for membership in the system under § 24-7-202, who are or have been erroneously enrolled in the Arkansas Public Employees’ Retirement System, whose membership in that system is cancelled, and whose employee or employer contributions are refunded by that system under §§ 24-2-301 — 24-2-305, shall make member contributions to the system as provided in subdivision (b)(2) of this section.

“(g)(2) If such an employee becomes an active member of the contributory plan of this system, he or she may establish contributory credit for all or part of his service that is cancelled by the Arkansas Public Employees’ Retirement System by paying both the employee and employer contributions required by this system plus regular interest.”

Pursuant to § 1-2-207, the amendment of this section by Acts 1999, No. 864 is deemed to be superseded by the amendment by Acts 1999, No. 907. Acts 1999, No. 864, § 1, amended (f) to read as follows: “(f)(1) Each member may elect by written election filed with the system in accordance with rules and regulations adopted by the board to eliminate future member contributions otherwise provided for in this section.

“(2) For a new member, the election shall become a binding agreement upon its effective date if the election is so filed before preparation of the payroll contain-

ing his first salary payment, but in no event before July 1, 1986.

“(3) Beginning July 1, 1993, any member may change his election concerning member contributions once each fiscal year. Beginning July 1, 1997, the election shall be effective the July 1 immediately preceding its filing provided it is received by the system before October 1 of the current fiscal year.

“(4)(A) If the election is to eliminate member contributions, then the election shall apply only to future member salaries and shall not change the status of any member contributions made before the election. Beginning July 1, 1999, an active member who has previously elected to eliminate member contributions, by paying the additional member contributions due plus interest from the dates the contributions would have been received by the system to the date of the payment in full, may change credited service on which no member contributions have been paid to member contributions credited service.

“(B)(i) If the effect of the election is to require member contributions, then the election shall apply only to future member salaries and shall not change any member contribution requirements existing before the election.

“(ii) However, if a member has previously contributed on only the first seven thousand eight hundred dollars (\$7,800) of his annual salary, he cannot contribute on full future salaries until he has made added contributions on past full salaries as provided in subsection (b) of this section.

“(5)(A) All new members, including any former active members, shall not make the member contributions otherwise provided for in this section.

“(B)(i) Those members may elect, by written election filed with the system in accordance with rules and regulations adopted by the board, to make contributions as provided for in this section.

“(ii)(a) The election shall become a binding agreement upon its effective date if the election is so filed with the system before the preparation of the payroll containing his first salary payment.

“(b) In all other circumstances, the election shall be effective the July 1 immediately following the filing of the election.

“(6)(A) For a new member who files in



compliance with subdivisions (f)(1) or (f)(5) of this section, the effective date shall be the date the first paycheck is received.

“(B) In all other circumstances, the effective date shall be July 1.”

**Amendments.** The 1993 amendment, in (c)(5), deleted “and” preceding “special payments,” inserted “and stipends paid by an employer or other educational agency which are five hundred dollars (\$500) or less in amount,” and added the third sentence; substituted “become a binding agreement upon its effective date” for “be effective immediately” in (f)(2); rewrote (f)(3); in (f)(5), inserted “including any former active members,” substituted “become a binding agreement upon its effective date” for “be effective immediately” and deleted the last sentence; and added (f)(6).

The 1995 amendment by No. 460, in (c)(1), divided the former first sentence into the present first and fourth sentences, added the proviso at the end of the first sentence, and inserted the present second and third sentences; and, in (c)(5), substituted “an employer” for “a school district” and substituted “six hundred dollars (\$600)” for “five hundred dollars (\$500).”

The 1995 amendment by No. 542 added

the proviso in the last sentence in (b)(4); and, in (c)(5), substituted “an employer” for “a school district” and substituted “six hundred dollars (\$600)” for “five hundred dollars (\$500).”

The 1997 amendment by No. 206 added (h).

The 1997 amendment by No. 393 redesignated (f)(2)(A) as present (f)(2); deleted (f)(2)(B); and, in (f)(3), deleted “to be effective the July 1 immediately following the filing of the election” from the end of the first sentence, and added the last sentence.

The 1999 amendment by No. 11 repealed former (c)(5).

The 1999 amendment by No. 81 rewrote (f) and (g).

The 1999 amendment by No. 864 rewrote (f).

The 1999 amendment by No. 907 rewrote (f) and (g)(1); deleted (g)(3); and made stylistic changes.

**Meaning of “this act”.** See note to § 24-7-401.

**U.S. Code.** Section 401(a)(17) of the Internal Revenue Code referred to in this section is codified as 26 U.S.C. 401(a)(17).

**Meaning of “this act”.** Section 414(h) of the Internal Revenue Code, referred to in this section is codified as 26 U.S.C. § 414(h).

## **24-7-407. Retirement fund assets accounts — Employer accumulation account.**

(a) The employer accumulation account is the account in which shall be accumulated the employer’s contributions to the Arkansas Teacher Retirement System, and from which shall be made transfers as provided in this act.

(b) Upon the retirement of a member, the difference between his annuity reserve and his accumulated contributions standing to his credit in the members’ deposit account at that time shall be transferred from the employer accumulation account to the retirement reserve account.

(c) Upon the death of a member, if survivor benefits become payable on account of his death, the difference between the reserve for the survivor benefits payable and the member’s accumulated contributions standing to his credit in the members’ deposit account at the time of his death shall be transferred from the employer accumulation account to the survivor benefit account.

**History.** Acts 1973, No. 427, § 8; A.S.A. 1947, § 80-1442.

**Meaning of “this act”.** See note to § 24-7-401.

**24-7-408. Retirement fund assets accounts — Retirement reserve account.**

(a) The retirement reserve account shall be the account from which shall be paid all annuities and benefits in lieu of annuities payable as provided in this act to retirants who retired on account of superannuation or disability and to beneficiaries of such retirants.

(b) If a disability retirant returns to teaching service:

(1) The amount of his accumulated contributions at the time of his disability retirement shall be transferred from the retirement reserve account to the members' deposit account; and

(2) The remainder of his annuity reserve at the time of return shall be transferred from the retirement reserve account to the employer accumulation account.

**History.** Acts 1973, No. 427, § 8; 1979, No. 681, § 3; A.S.A. 1947, § 80-1442. **Meaning of "this act".** See note to § 24-7-401.

**24-7-409. Retirement fund assets accounts — Survivor benefit account.**

The survivor benefit account shall be the account from which shall be paid survivor benefits payable as provided in this act.

**History.** Acts 1973, No. 427, § 8; 1981, No. 365, § 5; A.S.A. 1947, § 80-1442. **Meaning of "this act".** See note to § 24-7-401.

**24-7-410. Retirement fund assets accounts — Income-expense account.**

(a) The income-expense account shall be the account to which shall be credited all investment income from invested assets of the Arkansas Teacher Retirement System. It shall also be the account in which shall be accumulated the contributions made by employers for the administrative expenses of the system and from which shall be made annual transfers of interest credits to the other accounts of the system and from which shall be paid all the expenses of the Board of Trustees of the Arkansas Teacher Retirement System necessary for the administration and operation of the system.

(b) The board may accept gifts and bequests, which shall be credited to the income-expense account along with all other moneys received by the system the disposition of which is not specifically provided for in this act.

(c) The General Assembly shall, for each biennium at each regular session, appropriate the amounts of money certified by the board as required to pay the proper administrative expenses of the system.

(d)(1) At the end of each system fiscal year, the board shall credit each person's individual account in the members' deposit account with regular interest on the mean balance in the account for the fiscal year.

(2) At the end of each system fiscal year, the board shall credit the employer accumulation account with regular interest on the mean

balance in the account for the fiscal year and similarly shall credit regular interest to the retirement reserve account and to the survivor benefit account.

(3) The interest credits shall be transferred from the income-expense account.

(e) Whenever the board determines that the balance in the income-expense account is more than sufficient to cover the current charges to the account, the board may, by resolution, provide for contingency reserves, or for the transfer of the excess, or portions thereof, to cover the needs of the other accounts of the system.

**History.** Acts 1973, No. 427, § 8; 1979, No. 681, § 4; 1983, No. 619, § 12; 1983, No. 665, § 12; A.S.A. 1947, § 80-1442. **Meaning of "this act".** See note to § 24-7-401.

### **24-7-411. Compelling payment upon delinquency of employer.**

(a)(1) If any participating employer fails to remit to the Arkansas Teacher Retirement System those moneys which are required by law or regulation by the fifteenth day of the month in which the moneys are due, then the system shall impose a penalty of six percent (6%) interest on an annual basis on the moneys due.

(2) For purposes of this subsection, an employer's remittance shall not be considered delinquent if received by the system by the fifteenth day or postmarked no later than the fourteenth day of the month in which the payment is due.

(3) The interest penalty shall be determined by the system on the date the delinquent funds are received, and a statement of the interest shall be sent to the participating public employer.

(4) If the interest penalty or delinquent moneys are not received by the system by the last business day of the month in which the moneys were originally due, then the system shall cause the sums of moneys, including the interest, to be transferred from any moneys due the participating employer from the Treasurer of State and the Department of Education, as provided in § 19-5-106(a)(5).

(5) This interest shall be computed on the actual days of delinquency and shall be paid to the system for the purpose of reimbursing the trust fund for the money which would have been earned on the moneys had they been paid when due.

(b)(1) If any participating employer fails to file with the system the retirement report by the fifteenth day of the month in which the report is due, then the system shall impose a penalty of one hundred fifty dollars (\$150) for each time the report is late.

(2) For purposes of this subsection, the retirement report will not be considered late if received by the system by the fifteenth day of the month or postmarked no later than the fourteenth day of the month in which the report is due.

(3) A statement of the penalty shall be sent to the participating employer.



(4) If the penalty is not received by the last business day of the month in which the report was due, then the system shall cause the penalty amount to be transferred from any moneys due the participating employer from the Treasurer of State and the State Department of Education as provided in § 19-5-106(a)(5).

(5) The penalty amounts collected shall be deposited to the credit of the administrative funds of the system to help defray the cost of additional expenses incurred due to the additional work required to process late reports.

**History.** Acts 1973, No. 427, § 8; A.S.A. 1947, § 80-1442; Acts 1993, No. 300, § 1.

**Publisher's Notes.** As originally amended by Acts 1993, No. 300, § 1 sub-

divisions (a)(1) and (b)(1) began: "Beginning July 1, 1993."

**Amendments.** The 1993 amendment rewrote this section.

SUBCHAPTER 5 — ARKANSAS TEACHER RETIREMENT SYSTEM — MEMBERSHIP

SECTION.

24-7-501. Generally.

24-7-502. Termination of active membership.

SECTION.

24-7-503. [Repealed.]

24-7-504. Authority.

**Effective Dates.** Acts 1973, No. 427, § 11, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work irreparable harm upon the teachers of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the

Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval."

Acts 1975, No. 549, § 16: Mar. 25, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the unprecedented increase in the cost of living has resulted in a particular hardship to persons living on a fixed retirement income in the State of Arkansas; that it is essential to the health and well being of the retired and active schoolteachers of this State that the benefits received by them be increased immediately to offset this unusual cost of living increase and that this act should be given effect immediately in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall

be in full force and effect from and after its passage and approval."

Acts 1981, No. 365, § 9: Mar. 9, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clauses provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, and health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1989, No. 652, § 14: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 43, § 11: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the

Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 435, § 12: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that changed conditions have dictated that certain provisions of the Teacher Retirement law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1206, § 5: Apr. 19, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that even part-time educational personnel are made compulsory members of the Teacher Retirement System; that, in situations where part-time employees work less than thirty (30) days per fiscal year, the administrative cost to the System is more than can be justified, either in benefits accumulated or in investments earned; and that, in such cases, it is necessary to make these persons ineligible for membership in the System. Therefore, in order to promote the more efficient operation of the Teacher Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 542, § 10: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that changing conditions have dic-

tated that certain provisions of the Teacher Retirement System law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued

effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

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### **24-7-501. Generally.**

(a) The membership of the Arkansas Teacher Retirement System shall include the following persons:

(1) All teachers who last began service before July 1, 1971, in accordance with provisions in force before July 1, 1971;

(2) All teachers who last began service on or after July 1, 1971, and whose service is not covered by another retirement plan similar in purpose to the system, except social security; and

(3)(A) All nonteachers who begin nonteaching service on or after July 1, 1989, and whose nonteaching service is not covered by another retirement plan similar in purpose to the system, except social security.

(B) All nonteachers who began nonteaching service before July 1, 1989, whose nonteaching service is covered or coverable by the Arkansas Public Employees' Retirement System shall continue to be covered by the Arkansas Public Employees' Retirement System for all nonteaching service, both past and future.

(C) These nonteachers who began service before July 1, 1989, shall be considered members of a closed system to be administered by the Arkansas Public Employees' Retirement System.

(D) The employer contribution rate for this closed system shall be established at a rate necessary to fund all present and future liabilities until such time as there are no longer members, retirants, or deferred annuitants.

(b)(1) A person who has excluded himself from membership before July 1, 1991, may rescind the exclusion by filing with the system a membership data form.

(2) The rescission shall be effective July 1 of the fiscal year in which it is exercised.

(3) At the direction of the person, the membership may be prospective only, or both prospective and retroactive.

(4) For the membership to be retroactive, the member must pay to the system both the member contributions and the employer contributions which would have been paid to the system had there been no exclusion, plus regular interest from the dates the contributions would normally have been received by the system to the date of actual payment.

(c) In any case of question as to the system membership status of any person, the Board of Trustees of the Arkansas Teacher Retirement System shall have the final power to decide the question.



(d)(1) Membership in the system shall be a condition of employment in accordance with subsections (a)-(c) of this section and shall not be subject to election by individual employees.

(2) Provided, however, individual employees who accumulate less than thirty (30) days of credited service within a fiscal year shall not be eligible for membership in the system.

**History.** Acts 1973, No. 427, § 4; 1975, No. 549, § 2; 1977, No. 541, § 1; 1983, No. 619, § 3; 1983, No. 665, § 3; A.S.A. 1947, § 80-1439; Acts 1987, No. 314, § 1; 1989, No. 652, § 4; 1989, No. 653, § 2; 1991, No. 43, § 3; 1993, No. 1206, § 1.

**Amendments.** The 1993 amendment added the last sentence in (d).

## **24-7-502. Termination of active membership.**

(a)(1) When a member is no longer employed by an employer in a position covered by the Arkansas Teacher Retirement System, he shall thereupon cease to be an active member of the system. Unless he becomes a retirant or an inactive member as provided in this act, his credited service shall be forfeited by him upon termination of his active membership.

(2) If a former active member has not become a retirant and later becomes reemployed by an employer in a position covered by the system, he shall again become an active member upon reemployment.

(3) If he becomes reemployed from inactive member status, he shall immediately begin adding to his previous credited service; but if his service during his last such reemployment is for fewer than thirty (30) days, he shall be considered to be an inactive member at the termination of such reemployed service, and the only monthly benefits payable shall be those provided by § 24-7-707.

(4) If he becomes reemployed from neither retirant nor inactive member status, after completing thirty (30) days of service during his last such reemployment, the active member shall receive the indicated credited service for the credited service forfeited by him if he returns to the system the indicated amount, as follows:

(A) He shall receive his total forfeited credited service if he returns the amount he received therefrom, together with regular interest from the date of withdrawal to the date of repayment; or

(B) If a portion of his forfeited credited service has been credited him under the provisions of a publicly supported teacher retirement system of another state, he shall receive the portion of his forfeited credited service not so credited by the other system if he returns the amount he received from this system for that portion of his credited service not so credited by the other system, together with regular interest from the date of withdrawal to the date of repayment.

(5)(A) In addition to the forfeited credited service, the active member shall receive credit for his other previous service after July 1, 1937, upon his paying to the system the member contributions in effect during the previous service, together with regular interest from the dates of the service to the date of payment. For previous service

rendered before July 1, 1971, service credit shall be permitted for service in a fiscal school year only if at least one hundred twenty (120) days of service were rendered in the fiscal school year.

(B) To establish credit for previous service, a member must pay to the system both member and employer contributions, plus regular interest from the dates the contributions would normally have been received by the system to the date of actual payment.

(b) Upon a member's retirement, he shall cease to be a member and, except as otherwise provided in this act, he shall not again become a member of the system.

**History.** Acts 1973, No. 427, § 6; 1975, No. 549, § 3; 1977, No. 541, § 2; 1981, No. 365, § 3; 1983, No. 619, § 6; 1983, No. 665, § 6; A.S.A. 1947, § 80-1440.3; Acts 1989, No. 652, § 5; 1993, No. 435, § 6; 1995, No. 542, § 4.

**Amendments.** The 1993 amendment, in (a), deleted "teaching" preceding "service" throughout, and substituted "fewer" for "less" following "reemployment is for" in (a)(3).

The 1995 amendment substituted "thirty (30) days" for "one hundred twenty (120) days" in (a)(3) and (4).

**Meaning of "this act".** Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

### 24-7-503. [Repealed.]

**Publisher's Notes.** This section, concerning the effect of employment by a private school, was repealed by Acts 1987,

No. 4, § 4. The section was derived from Acts 1959, No. 55, §§ 1, 2; A.S.A. 1947, §§ 80-1455, 80-1456.

### 24-7-504. Authority.

The Board of Trustees of the Arkansas Teacher Retirement System shall have the authority to promulgate such rules and regulations as are necessary to provide for the participation of employers that are habilitative services corporations authorized under the provisions of § 4-34-101 et seq. Provided, however, the board shall not admit or retain any employer whose participation in the Arkansas Teacher Retirement System would jeopardize the tax-qualified status of the plan under the Internal Revenue Code, or that would subject the plan to additional federal requirements, or to any other consequence that the board would determine to be detrimental to the system.

**History.** Acts 1999, No. 865, § 4.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## SUBCHAPTER 6 — ARKANSAS TEACHER RETIREMENT SYSTEM — CREDITED SERVICE

## SECTION.

- 24-7-601. Generally.
- 24-7-602. Military service.
- 24-7-603. Out-of-state service.
- 24-7-604. Overseas service.
- 24-7-605. Service in General Assembly.
- 24-7-606. Service for leave of absence to

## SECTION.

- obtain advanced degree.
- 24-7-607. Private school service.
- 24-7-608. Limitation on benefit enhancement — Acts 1997, No. 1053.
- 24-7-609. [Repealed.]

**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-7-601 — 24-7-607 may not apply to § 24-7-608 which was enacted subsequently.

**Preambles.** Acts 1995, No. 513 contained a preamble which read: “WHEREAS, members of the Arkansas Teacher Retirement System may purchase up to five (5) years of credited service toward retirement for time spent in U.S. military service; and

“WHEREAS, members of the Arkansas Teacher Retirement System may purchase up to ten (10) years of credited service for service time teaching at an overseas school sponsored and approved by the U.S. Department of State or Department of Defense; and

“WHEREAS, members of the Arkansas Teacher Retirement System may purchase up to ten (10) years of credited service toward retirement for time spent teaching in out-of-state service;

“NOW, THEREFORE ...”

**Effective Dates.** Acts 1973, No. 427, § 11, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work

irreparable harm upon the teachers of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval.”

Acts 1979, No. 121, § 3: Feb 13, 1979. Emergency clause provided: “It is hereby found and determined by the Seventy-Second General Assembly that it is in the best interests of both school districts and the General Assembly to allow public schoolteachers and administrators to purchase service credit for leaves of absence taken to attend to General Assembly duties. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1979, No. 681, § 14: Apr. 2, 1979. Emergency clause provided: “It is hereby found and determined by the General As-



sembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 365, § 9: Mar. 9, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clauses provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 805, § 12: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System

and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 4, § 6: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 652, § 14: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 43, § 11: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 388, § 5: Mar. 7, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that a shortage exists for public school teachers in this state; that this act is necessary to encourage certified teachers who may have left the public school system to teach in certain private schools to return to public school teaching; that it is in the best interest and welfare of the people of the State of Arkansas that this act become effective immediately upon passage. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 524, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that this act is essential to the continued operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1995."

Acts 1995, No. 542, § 10: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that changing conditions have dictated that certain provisions of the Teacher Retirement System law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 142, § 8: July 1, 1998.

Acts 1997, No. 739, § 2, provided: "The provisions of § 24-7-602 shall be effective from and after December 12, 1994 and shall be retroactive to that date."

Acts 1997, No. 739, § 6: Mar. 21, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkan-

sas that the provisions of Arkansas Teacher Retirement laws are not in compliance with requirements under federal law and that it is necessary to bring the laws of the State of Arkansas into agreement with those requirements as soon as possible. Therefore, in order for this act to have immediate and retroactive effect, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1053, § 28: July 1, 1998.

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 110, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System law recognizes private school and out-of-state service for the purchase of credited service; that allowing the purchase of smaller increments of credited service will help members achieve more service credit for their teaching careers, that by increasing the benefit to members, more educators will be encouraged to stay in the teaching career fields;



and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 866, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system, that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort, that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the pres-

ervation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1508, § 19: April 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

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### 24-7-601. Generally.

(a) By rules and regulations, the Board of Trustees of the Arkansas Teacher Retirement System shall fix and determine the number of years, and fraction thereof, of service to be credited each member for his employment as an employee.

(b) In no case, other than specifically provided otherwise in this subchapter, shall fewer than one hundred twenty (120) days of teaching service rendered in any fiscal school year be credited as one (1) year of service, nor shall more than one (1) year of service be credited any member for all teaching service rendered by him in any one (1) fiscal school year.

(c)(1) Days of absence from service because of sickness shall be considered as service if the days are paid sick leave.

(2) Days of paid sick leave shall not be considered service if the payment is for unused sick leave.

(d) No credited service may be granted by the board for service rendered before July 1, 1937.

(e)(1) The system is a reciprocal system under the provisions of §§ 24-2-401 — 24-2-405.

(2) In establishing eligibility for a benefit from the Arkansas Teacher Retirement System, the credited service under all reciprocal systems



shall be totaled and the total credited service shall be used in determining eligibility for a system benefit.

(3) In determining the amount of a benefit from this system, there shall be used only the credited service under this system and the benefit formula of this system.

(4) The final average compensation used shall be that of the reciprocal system which furnishes the highest final salary at the time of retirement.

(5) Wherever this system provides a benefit amount which is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that system-credited service bears to total reciprocal system-credited service.

(f) In any case of question as to the service credit of any person, the board shall have the final power to decide the question.

**History.** Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1981, No. 365, §§ 1, 2; 1983, No. 619, §§ 4, 5; 1983, No. 665, §§ 4, 5; 1985, No. 805, § 2; A.S.A. 1947, § 80-1440; Acts 1989, No. 10, § 2; 1989, No. 653, § 3; 1991, No. 43, § 4.

**A.C.R.C. Notes.** Acts 1989, No. 652, § 6, provided: "In no case shall fewer than one hundred twenty (120) days of teaching service rendered in any fiscal school year be credited as one (1) year of service, nor shall more than (1) year of service be credited any member for all teaching service rendered by him in any one (1) fiscal

school year, nor shall any credited service be given for service as a consultant."

Acts 1989, No. 653, § 3, provided: "In no case shall fewer than one hundred twenty (120) days of service rendered in any fiscal school year be credited as one (1) year of service, nor shall more than one (1) year of service be credited any member for all service rendered by him in any one (1) fiscal school year, nor shall any credited service be given for service as a consultant."

**Cross References.** Leaves of absence, § 6-17-306.

## **24-7-602. Military service.**

(a)(1) In the event an active member enters the armed forces of the United States during any period of compulsory military service, the armed service actually required of him shall be credited him as service under this subchapter, but only if he returns to the Arkansas Teacher Retirement System the amount, if any, he may have received therefrom at the time he entered or while in the armed service, together with interest from the date of withdrawal to the date of repayment.

(2) In addition, an active member who entered the armed forces of the United States during any period of compulsory military service and who returns as an employee within one (1) year upon his return from armed service shall be eligible to receive service credit for the time of his armed service, even if he does not complete a total of ten (10) years of credited service in Arkansas.

(b) During the period of armed service and until his return as an employee, his contributions to the system shall be suspended, and any balance remaining to his credit in the members' deposit account shall be accumulated at regular interest.

(c) A person who entered the armed forces and who was not an active member at the time of entry shall have the armed service actually

required of him credited as service under this subchapter if he satisfies all of the following conditions:

(1) He completes five (5) years of actual service for service in Arkansas; and

(2) The armed service is not credited as service under any other retirement plan except social security. Receipt of a disability pension from the federal military system shall not be considered as having service credit with another retirement plan.

(d) If mandated by federal law prior to December 12, 1994, armed service not otherwise creditable under the provisions of this section shall be creditable, provided the member pays both the employee and employer contributions required by the system, plus interest from the date of discharge from active duty until paid in full.

(e)(1) Effective December 12, 1994, a member who leaves employment with a school to serve, on a voluntary or involuntary basis, in the uniformed services of the United States and returns to employment with a school shall be treated as not having incurred a break in service with the employer. The employer shall certify to the system that reemployment was in accordance with the requirements set forth in Section 4312 of Pub.L. 103-353, the Uniformed Services Employment and Reemployment Act of 1994.

(2) Under this subsection, uniformed services of the United States is limited to the armed forces, the Army and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(3) The cumulative length of the absence from a position of employment with the employer by reason of service in the uniformed services shall not exceed five (5) years.

(4) A member reemployed under this subsection shall be entitled to accrue benefits for the time he served in the uniformed services by paying the employee contributions set forth in § 24-7-406.

(5) An employer reemploying a member under this subsection shall pay to the system the employer contributions due for the time the member served in the uniformed services and shall be those required by § 24-3-103. However, should a member not pay the employee contributions due, then no employer contributions shall be due.

(6) For the purposes of determining the employee and employer contributions due, the member's compensation during the period of service in the uniformed services shall be computed at:

(A) The rate the member would have received had he not served in the uniformed services; or

(B) The member's average compensation level during the twelve (12) month period, or shorter, if applicable, immediately preceding the service.

(7) If both employee and employer contributions are not paid, the member shall not be entitled to any accrued benefits for the time served in the uniformed services.

(f) In no event shall a person be credited with a total of more than five (5) years of armed service, except that service credited under subsection (e) of this section shall be in addition to that amount.

(g) In any case of doubt as to the period of the armed service to be credited a member, the Board of Trustees of the Arkansas Teacher Retirement System shall have the power to determine the period.

**History.** Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1983, No. 619, § 5; 1983, No. 665, § 5; A.S.A. 1947, § 80-1440; Acts 1987, No. 518, § 1; 1989, No. 652, § 7; 1989, No. 653, § 4; 1991, No. 43, § 5; 1997, No. 142, § 2; 1997, No. 739, § 1; 1997, No. 1053, § 1; 1997, No. 1068, § 1.

**Amendments.** The 1997 amendment by No. 142 substituted "interest" for "regular interest" in (a) and (d).

The 1997 amendment by No. 739 inserted present (e) and redesignated former (e) and (f) as present (f) and (g); in (d), inserted "prior to December 12, 1994" and deleted "regular" preceding "interest"; and added the exception in present (f).

The 1997 amendment by No. 1053 sub-

stituted "five (5) years of actual service" for "ten (10) years of credited service" in (c)(1).

The 1997 amendment by No. 1068 added the last sentence in (a).

**Effective Dates.** Acts 1997, No. 739, § 2, provided: "The provisions of § 24-7-602 shall be effective from and after December 12, 1994 and shall be retroactive to that date."

**U.S. Code.** Section 4312 of Pub.L. 103-353, the Uniformed Services Employment and Reemployment Act of 1994, referred to in this section, probably refers to § 2 of Pub.L. 103-353, which is codified as 38 U.S.C.S. § 4312.

## 24-7-603. Out-of-state service.

(a) As used in this section, "out-of-state service" means service rendered in any state except Arkansas in a position which would have been covered by the Arkansas Teacher Retirement System had the service been rendered in the State of Arkansas.

(b) Out-of-state service contracted for before July 1, 1987, shall be credited as service under this section in accordance with provisions in force before July 1, 1987.

(c) From and after July 1, 1987, an active member shall be eligible, upon application, to purchase out-of-state service to be credited as service hereunder in accordance with the following conditions:

(1) The out-of-state service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to this system, except social security, if the member had left on deposit his contributions to the other system. The credit shall be limited to fifteen (15) years;

(2)(A)(i) The member shall pay to the system for each year of service credit being granted the employee and employer contribution rate in effect at the time of purchase the greater of the annual salary received by him for his first full year of credited service that precedes the fiscal year in which the service is purchased, or the average of the three (3) highest salaries earned at the time of purchase, together with interest from the end of that year of credited service to the date of payment in full.



(ii) If the payment is not made in a single sum at the time the contract is made, interest shall be added from the date of the contract to the date of payment in full.

(B) The payment shall be credited to the member's account in the members' deposit account and shall be in addition to regular member contributions thereto;

(3) The out-of-state service shall not become credited service under this system until:

(A) The member payments specified in subdivision (c)(2) of this section have been paid in full; and

(B)(i) The member has established five (5) or more years of actual service.

(ii) Should a member cease to be an active member before the out-of-state service has been established as system-credited service, the member payments contributed as specified in subdivision (c)(2) of this section shall be refundable, together with regular interest thereon;

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) Such other rules and regulations consistent herewith as the Board of Trustees of the Arkansas Teacher Retirement System may from time to time adopt.

(d) An active member may purchase a fraction of a year of out-of-state service to be credited as service under this subchapter in the same manner as provided for out-of-state service under subsection (c) of this section if the service meets the following requirements:

(1) The member has not less than thirty (30) days of out-of-state credited service in the fiscal year; and

(2) The fraction of a year of out-of-state service may be credited in keeping with policies of the board as provided by § 24-7-601.

(e) An active member shall be eligible, upon application, to purchase service rendered outside the state during a period of employment with an education coordinating council to be credited as out-of-state service under the provisions of this section, provided the conditions of subsection (c) of this section are met.

**History.** Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1981, No. 365, §§ 1, 2; 1983, No. 619, §§ 4, 5; 1983, No. 665, §§ 4, 5; 1985, No. 805, § 3; A.S.A. 1947, § 80-1440; Acts 1987, No. 118, § 1; 1989, No. 10, § 1; 1991, No. 501, § 1; 1995, No. 524, § 1; 1997, No. 142, §§ 3, 4; 1997, No. 1053, § 2; 1999, No. 110, § 1; 1999, No. 866, §§ 2, 3.

**A.C.R.C. Notes.** As enacted, the 1991 amendment adding (e) began "From and after July 1, 1991..."

**Amendments.** The 1995 amendment inserted "provided, however, that a frac-

tion of a year of out-of-state service may be credited in keeping with board policies as provided by § 24-7-601" in (d)(1).

The 1997 amendment by No. 142 rewrote (c)(2)(A); and substituted "credited" for "teaching credited" in (d)(2).

The 1997 amendment by No. 1053 rewrote (c)(3)(B)(i).

The 1999 amendment by No. 110, in the introductory language of (d), substituted "may purchase a fraction of year of" for "who had both in state and," deleted "in one (1) school year may contract with the board for one (1) year of service" following

“out-of-state service,” and deleted “additional” following “meets the following”; and rewrote (d)(1) and (d)(2).

The 1999 amendment by No. 866 substituted “shall be eligible, upon application, to purchase” for “may contract with the Board of Trustees of the Arkansas Teacher Retirement System for” in (c); substituted “fifteen (15) years” for “ten (10) years” in (c)(1); in (c)(2)(A)(i) inserted “the greater” preceding “of the annual salary received” and “or the average of the

three (3) highest salaries earned at the time of purchase” preceding “together with interest”; substituted “shall be eligible, upon application, to purchase” for “may contract with the board for” in (e); and made stylistic changes.

**Meaning of “this act”.** Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

## **24-7-604. Overseas service.**

(a) As used in this section, “overseas service” means service in an American-type overseas school sponsored and approved by either the United States Department of State or the Department of Defense, or service rendered in the Peace Corps or Volunteers In Service To America (VISTA).

(b) A member of the Arkansas Teacher Retirement System may receive membership service credit for service in an overseas school subject to the following conditions:

(1) To be eligible for overseas service credit, a member must have a minimum of five (5) years of membership service in a position covered by the system;

(2)(A) The overseas service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to this system, except social security.

(B) The maximum overseas service credited to any member shall be ten (10) years;

(3) To be eligible for a year of overseas service credit, a member must have rendered at least one hundred twenty (120) days of service. Fractions of years of service may be credited in keeping with policies of the Board of Trustees of the Arkansas Teacher Retirement System as provided by § 24-7-601;

(4)(A) Contributions must be paid on the later of the member’s salary in the overseas school or the annual salary received by him for the first full year of state teaching service preceding the fiscal year in which service is purchased.

(B)(i) The member shall pay the member contribution rate.

(ii)(a) Employer contributions may be paid either by the employer or by the member.

(b) For each year of the member’s service overseas, employer contributions shall be based upon the employer contribution rate in effect for that year, provided employer contributions are paid in the year in which the service is rendered. If the employer contributions are not paid when service is rendered, the employer contributions shall be based on the rate in effect in the year preceding the fiscal year in which the service is purchased.

(c) If contributions were not paid to the system promptly, as service was rendered, interest shall be added from the date of purchase to the date of payment in full.

**History.** Acts 1973, No. 427, § 5; 1979, No. 681, § 1; 1981, No. 365, §§ 1, 2; 1983, No. 619, §§ 4, 5; 1983, No. 665, §§ 4, 5; 1985, No. 805, § 4; A.S.A. 1947, § 80-1440; Acts 1987, No. 4, § 2; 1989, No. 670, § 1; 1991, No. 43, § 6; 1997, No. 142, § 5; 1997, No. 1053, § 3; 1999, No. 866, § 4.

**Amendments.** The 1997 amendment by No. 142 rewrote (b)(4).

The 1997 amendment by No. 1053 substituted "five (5) years of membership" for "ten (10) years of membership" in (b)(1).

The 1999 amendment inserted "or service rendered in the ... America (VISTA)" at the end of (a); and made stylistic changes.

## 24-7-605. Service in General Assembly.

(a)(1)(A)(i) Any member of the Senate or House of Representatives of the General Assembly who is a member of the Arkansas Teacher Retirement System shall be eligible, upon application, to receive credited service in the system for his full contract salary in the event that a cut in pay is required by the school district during his attendance at regular or extraordinary sessions of the General Assembly or during his attendance at meetings of regular or special committees of the General Assembly during the interim.

(ii) These meetings shall include, but not be limited to, the Legislative Council, the Legislative Joint Auditing Committee, the interim committees, and special legislative committees.

(B) The member shall receive credited service upon payment by him of the necessary member contribution and upon appropriation from the Public School Fund of the necessary employer contribution for the amount of the salary reduction during periods of attending regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(2) The amount of credited service shall not exceed the contract salary of the member for the school year contract period.

(3)(A) Any member of the House of Representatives or the Senate currently serving in the General Assembly or the legislative committees for any year prior to July 6, 1977, not to exceed five (5) years, may make application for and receive credited service in the system for his full contract salary as an employee with respect to any reduction therein during attendance at regular or extraordinary sessions of the General Assembly or sessions of legislative committees in which he served.

(B) This shall be done only if he pays to the system the member contribution required by law, and if appropriation is made from the Public School Fund for the necessary employer contribution required by law for that portion of his contract salary for any period for which he suffered a reduction in pay during legislative service.

(b)(1) Any member of the Senate or House of Representatives of the General Assembly who is an employee and is a member of the system



shall be eligible, upon application, to receive credited service in the system for his full contract salary in the event that either the member or the school district decides it is in the best interest of the school district for the member to take a leave of absence for up to one (1) full calendar year at a time to attend to his duties as a General Assembly member.

(2) Service shall be credited upon payment by the member of the necessary member contribution and the necessary employer contribution for the amount of the member's contract salary during periods of attending regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(3) The amount of credited service shall not exceed the member's contract salary for the school year contract period.

**History.** Acts 1977, No. 351, § 1; 1979, No. 121, § 1; 1979, No. 313, § 1; A.S.A. 1947, §§ 80-1440.1, 80-1440.2; Acts 1989, No. 653, § 5; 1997, No. 1354, § 41.

**Amendments.** The 1997 amendment substituted "interim committees" for "joint interim committees" in (a)(1)(A)(ii).

### **24-7-606. Service for leave of absence to obtain advanced degree.**

(a)(1) From and after June 28, 1985, any public school teacher or administrator who is a member of the Arkansas Teacher Retirement System and takes a leave of absence from a school in order to obtain an advanced degree at an institution of higher learning or to fulfill the requirements of a scholarship or grant shall be eligible, upon application, to receive credited service in the system for the time of actual enrollment in the institution.

(2) Evidence of at least one hundred twenty (120) days' enrollment shall be presented with the application.

(b) The service shall be credited in accordance with § 24-7-601.

(c) Payment for the service shall be based on the greater of the annual salary earned for the first full year of state teaching service preceding the fiscal year in which the service is purchased and the total of the member contribution rate in effect during that fiscal school year plus the employer contribution rate in effect during that fiscal year, or the average of the three (3) highest salaries earned at the time of purchase, plus interest from the end of the fiscal year in which the service is purchased until payment is made in full.

**History.** Acts 1985, No. 897, § 1; A.S.A. 1947, § 80-1440.4; Acts 1989, No. 652, § 8; 1991, No. 184, § 1; 1995, No. 542, § 5; 1997, No. 142, § 6; 1999, No. 866, § 5.

**A.C.R.C. Notes.** Subsection (d) was omitted from this section as set out in Acts 1997, No. 142, but was not specifically deleted by the act. This may have been an

engrossing error. Subsection (d) of this section read as follows: "(d) The payment shall be credited to the member's account in the members' deposit account but shall be in addition to regular member contributions to the account."

**Amendments.** The 1995 amendment added the subdivision designations in (a); and, in (c), deleted "highest" preceding

“annual salary” and substituted “for the fiscal year preceding the leave” for “at the time of purchase.”

The 1997 amendment rewrote (c).

The 1999 amendment, in (c), inserted

“greater of the” preceding “annual salary earned” and “or the average of the three (3) highest salaries earned at the time of purchase” preceding “plus interest from the end.”

## **24-7-607. Private school service.**

(a) As used in this section, “private school service” means service rendered in any private school or agency which is recognized by the Department of Education for the issuance of teaching certificates.

(b) From and after January 1, 1990, an active member shall be eligible, upon application, to purchase private school service to be credited as service under this section in accordance with the following conditions:

(1) The private school service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to the Arkansas Teacher Retirement System, except social security, if the member left on deposit his contributions to the other system, and it shall be limited to ten (10) years;

(2)(A) The member shall pay to the system for each year of service credit being granted the greater of the employee and employer contribution rate in effect at the time of purchase of the annual salary received by him for his first full year of credited service that precedes the fiscal year in which the service is purchased, or the average of the three (3) highest salaries earned at the time of purchase, together with interest from the end of that year of credited service to the date of payment in full.

(B) If the payment is not made in a single sum at the time the contract is made, interest shall be added from the date of the contract to the date of payment in full.

(C) The payment shall be credited to the member’s account in the members’ deposit account and shall be in addition to regular member contributions thereto;

(3) The private school service shall not become credited service under this system until:

(A) The member payments specified in subdivision (b)(2) of this section have been paid in full; and

(B)(i) The member has established five (5) or more years of actual service exclusive of private school service.

(ii) Should a member cease to be an active member before the private school service has been established as system-credited service, the member payments contributed as specified in subdivision (b)(2) of this section shall be refundable, together with regular interest thereon;

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) Such other rules and regulations consistent with this section as the Board of Trustees of the Arkansas Teacher Retirement System may from time to time adopt.

(c) An active member may purchase a fraction of a year of private school service to be credited as service under this subchapter in the same manner as provided for private school service under subsection (b) of this section if the service meets the following requirements:

(1) The member has not less than thirty (30) days of private school service in a fiscal year; and

(2) The fraction of a year of private school service may be credited in keeping with policies as provided by § 24-7-601.

**History.** Acts 1991, No. 388, § 1; 1995, No. 513, § 1; 1995, No. 524, § 2; 1997, No. 142, § 7; 1997, No. 1053, § 4; 1999, No. 110, § 2; 1999, No. 866, § 6.

**Amendments.** The 1995 amendment by No. 513 deleted "State" preceding "Department" in (a); added the subdivision designations in (b)(2); inserted "of this section" in (b)(3)(A) and (B); substituted "system-credited" for "system credited" in (b)(3)(B); and substituted "less than" for "fewer than" in (c)(1).

The 1995 amendment by No. 524 inserted "provided, however, that a fraction of a year of private school service may be credited in keeping with board policies as provided by § 24-7-601" in (c)(1).

The 1997 amendment by No. 142 rewrote (b)(2)(A); and, in (b)(2)(B), substituted "interest" for "regular interest" and added "in full" at the end.

The 1997 amendment by No. 1053 rewrote (b)(3)(B)(i).

The 1999 amendment by No. 110, in (c), substituted "may purchase a fraction of a year of" for "who had both public and," deleted "in one (1) school year may contract with the board for one (1) year of service" following "private school service," and deleted "additional" following "the service meets the following"; rewrote (c)(1) and (c)(2); and made stylistic changes.

The 1999 amendment by No. 866 substituted "shall be eligible, upon application, to purchase" for "may contract with the board for" in (b); and, in (b)(2)(A), inserted "the greater of" preceding "the employee and employer" and "or the average of the three (3) highest salaries earned at the time of purchase" preceding "together with interest"; and made stylistic changes.

## **24-7-608. Limitation on benefit enhancement — Acts 1997, No. 1053.**

(a) No benefit enhancement provided for by this act shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by this act shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 1053, § 27.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-7-601 — 24-7-607 may not apply to this section which was enacted subsequently.

References to "this chapter" in §§ 24-7-

101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.



**Meaning of “this act”.** Acts 1997, No. 1053, codified as §§ 24-2-502, 24-3-201, 24-3-206 — 24-3-208, 24-5-107, 24-5-110, 24-5-112 — 24-5-114, 24-5-118, 24-6-211

— 24-6-214, 24-7-602 — 24-7-604, 24-7-607, 24-7-608, 24-7-701, 24-7-704, 24-7-705, 24-7-707, 24-7-710, 24-7-807, 24-7-1005.

**24-7-609. [Repealed.]**

**A.C.R.C. Notes.** This section, concerning limitation on benefit enhancement of Acts 1997, No. 1053, was repealed pursu-

ant to § 29-20-138. The section was derived from Acts 1997, No. 1053, § 27. For present law, see § 24-7-608.

**SUBCHAPTER 7 — ARKANSAS TEACHER RETIREMENT SYSTEM — BENEFITS**

SECTION.

- 24-7-701. Voluntary retirement.
- 24-7-702. Early voluntary retirement.
- 24-7-703. [Repealed.]
- 24-7-704. Disability retirement.
- 24-7-705. Life annuity.
- 24-7-706. Annuity options.
- 24-7-707. Deferred annuity.
- 24-7-708. Conditions subjecting annuities to limitations.
- 24-7-709. Disposition of residue.
- 24-7-710. Survivor benefits.
- 24-7-711. Disposition of accumulated contributions upon membership termination.
- 24-7-712. Determination of benefit program.
- 24-7-713. Monthly benefits — Redetermination.
- 24-7-714. Increase in monthly benefits — Acts 1979, No. 655 and Acts 1981, No. 885.
- 24-7-715. Benefit rights not subject to legal process.
- 24-7-716. Lump-sum payment of reserve

SECTION.

- value of small annuity.
- 24-7-717. Rescission of termination of active membership.
- 24-7-718. Minimum financial conditions for benefit increases.
- 24-7-719. Rollover of distributions.
- 24-7-720. Lump-sum benefit.
- 24-7-721. Increase in monthly benefits — Acts 1997, No. 442.
- 24-7-722. Limitation on benefit enhancement — Acts 1997, Nos. 442, 992, and 1074.
- 24-7-723. Increase in monthly benefits — Acts 1997, No. 992.
- 24-7-724, 24-7-725. [Repealed.]
- 24-7-726. Computation of benefits based on contract salary.
- 24-7-727. Compounded cost of living adjustments.
- 24-7-728. Computation of benefits based on life annuity.
- 24-7-729. Adjustment of § 24-7-713 base amount.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-7-101 to 24-7-720 and §§ 24-7-801 to 24-7-1312 may not apply to §§ 24-7-721 to 24-7-725, which were enacted subsequently.

**Effective Dates.** Acts 1973, No. 427, § 1, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the

beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work irreparable harm upon the teachers of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval."

Acts 1975, No. 549, § 16: Mar. 25, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the unprecedented increase in the cost of living has resulted in a particular hardship to persons living on a fixed retirement income in the State of Arkansas; that it is essential to the health and well being of the retired and active schoolteachers of this State that the benefits received by them be increased immediately to offset this unusual cost of living increase and that this act should be given effect immediately in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 655, § 5: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that benefits to persons retired from the four Statewide retirement systems are inadequate, and that equitable increases need to be instituted immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1979."

Acts 1979, No. 681, § 14: Apr. 2, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the

Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 776, § 3: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that annuities now being paid to retired teachers are insufficient to afford an adequate standard of living and that an increase in these annuities is needed at the earliest possible time. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 14, § 2: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that annuities now being paid to retired teachers are insufficient to afford an adequate standard of living, and an increase in retirement annuities for teachers is needed at the earliest possible time. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1981."

Acts 1981, No. 365, § 9: Mar. 9, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are unfair and inequitable to certain members of the Teacher Retirement System; that correction of these inequities is essential to the well being of members of the Teacher Retirement System and to efficient administration of the system. Therefore, an emergency is hereby declared to exist, and this act, being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 435, § 3: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that annuities now being paid to retired teachers are insufficient to afford an adequate standard of living, that the benefit formula of the Teacher Retirement System is lower than the formulas of other state retirement systems, and that an increase in retirement annuities for teachers is needed at the earliest possible time. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1981."

Acts 1981, No. 885, § 2: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that some members of the Teacher Retirement System who have retired since July 1, 1978, are receiving less in benefits than they would be receiving if they had retired on or before July 1, 1978, and received the \$.75 per month per year of credited service provided by Act 655 of 1979, that such a penalty for additional years of teaching service is inconsistent with sound public policy and should be corrected at the earliest opportunity. Therefore an emergency is hereby declared to exist, and this act, being necessary for the public peace, health, and safety, shall be in full force and in effect on and after July 1, 1981."

Acts 1983, No. 127, § 4: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that annuities now being paid to retired teachers are insufficient to afford an adequate standard of living, that the benefit formula of the Teacher Retirement System is lower than the formulas of other state retirement systems, and that an increase in retirement annuities for teachers is needed at the earliest possible time. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1983."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clauses provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that

such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 162, § 3: Feb. 19, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly the purchasing power of retired teachers continues to be eroded by inflation and that this increase in benefits is badly needed to maintain a reasonable standard of living. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 805, § 12: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 4, § 6: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1987, No. 802, § 4: July 1, 1987. Emergency clause provided: "It is hereby



found and determined by the General Assembly that annuities now being paid to retired teachers are insufficient to afford an adequate standard of living, that the benefit formula of the Teacher Retirement System is lower than the formulas of other state retirement systems, and that an increase in retirement annuities for teachers is needed at the earliest possible time. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1987."

Acts 1989, No. 39, § 3: July 1, 1989.

Acts 1989, No. 652, § 14: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 43, § 11: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 44, § 8: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that annuities now being paid to retired teachers are insufficient to afford an adequate standard of living, that the benefit formula of the Teacher Retirement System is

lower than the formulas of other state retirement systems, and that an increase in retirement annuities for teachers is needed at the earliest possible time. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect on and after July 1, 1991."

Acts 1991, No. 51, § 5: Feb. 7, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the law providing for a means for retirants to choose an option causes an undue hardship on some beneficiaries; that it is necessary to provide an option to allow qualified beneficiaries to change that option; therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 239, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that in instances where a retirant under the Teacher Retirement System is an employee of a public employer whose employees are covered by the Teacher Retirement System then for each twelve (12) month period ending June 30, the amount of his annuity should be subject to the limitations equivalent to twice the limitations imposed by the social security retirement test; that this act so provides; and that in order for this act to go into effect for the twelve (12) month period ending June 30, 1992, this emergency clause must be adopted. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 435, § 12: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that changed conditions have dictated that certain provisions of the Teacher Retirement law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in

the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 478, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that inequities exist in the rescission procedure and that active members of the Teacher Retirement System should be allowed to purchase previous service rendered while a retirant. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 972, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that changes in the federal Internal Revenue Code and federal IRS regulations have made several provisions of the Teacher Retirement System law in need of revision and updating, that the law needs to be updated in order to prevent an unfair tax impact on the system's members and dependents, and that certain changes in the Teacher Retirement System law are necessary to efficiently and effectively administer the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect retroactive to July 1, 1993."

Acts 1995, No. 281, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the certain restrictions placed on the retirement of members under the Arkansas Teacher Retirement System are inequitable and that those restrictions should be changed and eliminated as soon as practicable without delay in order to avoid an undue hardship to many retirants and beneficiaries. Therefore, in order to reduce the inequities of the Teacher Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate

preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 282, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the methods of computing retirement benefits for members of the Teacher Retirement System and the certain restrictions placed on the retirement of inactive members under the Arkansas Teacher Retirement System are inequitable and that those methods of computing benefits and those restrictions should be changed and eliminated as soon as practicable without delay in order to avoid an undue hardship to many retirants and beneficiaries. Therefore, in order to reduce inequities of the Teacher Retirement System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 528, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that it is necessary to provide members of the Teacher Retirement System with the opportunity to change their retirement options upon retirement; that this change in Arkansas law will provide the system retirants a needed alternative to the rigid annuities of the past; and that it will correct some inequitable situations which occur subsequent to retirement for some individual retirants. Therefore, in order to aid retirants in their retirement planning, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 542, § 10: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that changing conditions have dictated that certain provisions of the Teacher Retirement System law need to be revised and updated, that these changes are necessary for the System to continue with proper management and administration, and that the revisions in



the law are essential to the continued effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1293, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the retirement benefits of members of the Teacher Retirement System are subject to an earnings limitation on the amount of earnings a retirant can receive in salary from another public school employer; that the earnings limitation deprives state colleges and universities of a valuable educational resource of experienced instructors; and that the earnings limitation creates an inequity for members of the Teacher Retirement System who wish to teach in higher education. Therefore, in order to correct this inequity and allow for its effective implementation, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 384, § 5: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain occupational groups are exempt from the annuity limitation under the Teacher Retirement System; that this exemption creates an inequitable situation with other groups; and eliminating this exemption is essential to the equitable administration of the retirement system. Therefore, in order to restore equity among the groups under the system, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 442, § 6: Mar. 11, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the retirement benefits payable to retirants and beneficiaries of the Arkansas Teacher Retirement System retiring prior to July 1, 1991 were not increased at

the same rate as benefits have increased since then; that the retirant and beneficiary payments for retirants who retired prior to July 1, 1991 are inadequate; and that the the retirant and beneficiary payments for retirants retiring prior to July 1, 1991 should be increased as soon as possible in order to relieve this inequity in the System. Therefore, in order to reduce an inequity in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 992, § 17: Apr. 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that, during the 1990's, behavioral problems with students and the number of school security problems have increased dramatically in the public schools of Arkansas; that older public school employees are more susceptible to these problems and are more adversely affected by this increased job stress; that younger employees can more easily adjust to these changes in the public school work environment; and that reducing the amount of time a public school employee must serve to receive full retirement benefits under the Teacher Retirement System to twenty-eight (28) years of service credit and increasing the amount of the retirement benefit multiplier for the System's active members will improve the motivation of public school employees and increase the productivity of the public schools and educational institutions in Arkansas. Therefore, in order to more effectively utilize public school and educational funds, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during



which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1022, § 5: July 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this section herein is added to the Arkansas Code to provide a benefit for beneficiaries of members and retirants of the Arkansas Teacher retirement system for their service dedicated to the facilitation of educating Arkansas' children. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and in effect from and after July 1, 1997."

Acts 1997, No. 1053, § 28: July 1, 1998.

Acts 1997, No. 1074, § 6: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that there are members of the Teacher Retirement System who retired before July 1, 1984 on reduced retirements when service requirements were thirty-five (35) years; that, since then, the service requirement was reduced to thirty (30) years; and that those persons retiring in 1984 on reduced annuities should be adjusted to relieve an inequity and implementation of the provisions of this act is necessary to begin at the start of the State's fiscal year. Therefore, in order to promote relief of inequities and sound fiscal administration, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1999, No. 30, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain Teacher Retirement System retirants are sometimes needed by the Arkansas Department of Education to fulfill vital positions within the educational system of Arkansas, that current retirement law limits the amount of salaries which can be paid to System retirees and the law needs to provide a method by which the System can waive those earning limitations, and that the most effective time to make changes to the retirement system is at the

beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 221, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that members of the Teacher Retirement System who receive the minimum benefits are some of the poorest retirees and are in the most need of having their benefits increased, and that the minimum benefits need adjusting based on the number of years of service to increase the equity of the benefit structure of the retirement system, and therefore this act should have effect immediately with the beginning of the State's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 312, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that deceased members of the Teacher Retirement System leave families in need of financial support and that there is a necessity of financial stability for families during this time of crisis and the death benefit provisions should be increased, and that increasing the death benefit provisions of the retirement system can most effectively be managed at the beginning of the state's fiscal year and therefore this act should have effect immediately with the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 395, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain retirement annuity options continue for long periods of time, that providing these retirants with the capability of changing those options in the event of a death or divorce of the retirant or his beneficiaries

will provide the needed flexibility in their financial conditions and that the most effective time to make changes to the retirement system is at the beginning of the state's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 400, § 6: Mar. 4, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes in the amount of monthly benefits in the Teacher Retirement System are necessary for the continued financial stability of the current retirees and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year and therefore this act should have immediate effect. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 866, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System law must be changed and refined periodically to clarify existing administrative practices within the system, that clarifying incorrect references and language in current law consumes a considerable amount of administrative time and effort, that the law needs to be clarified to reduce the cost and effort of responding to those inconsistencies, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and

safety shall become effective on July 1, 1999."

Acts 1999, No. 1066, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that benefit provisions applicable to local officers and employees need revision, and that the effective administration of this act makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1521, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that early retirement penalties for the Teacher Retirement System are overly harsh, that incentives for teachers to retire will improve staff morale and the working environment, and that the beginning of the fiscal year is the most advantageous time to implement benefit changes with the Teacher Retirement System. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1590, § 8: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System has reduced the amount of service credit needed for full retirement to twenty-eight (28) years of credited service, that the Teacher Deferred Retirement Option Plan is an important incentive to keep experienced teachers in the classroom rather than retiring completely, that experienced teachers are a valuable human resource and should be encouraged to stay in the classroom, and that the beginning of the state's fiscal year is the best time to implement any change in retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

## CASE NOTES

**Constitutionality.**

Retroactive benefit limitation of former teacher retirement law was unconstitutional as applied to teacher who had previously performed all requirements under retirement plan and received annuity benefits; the plan to which he had contributed

was part of the contract between him and the state, and retroactive laws are invalid if they impair the obligations of contracts or rights accruing thereunder. *Pyle v. Webb*, 253 Ark. 940, 489 S.W.2d 796 (1973) (decision under prior law).

## RESEARCH REFERENCES

**UALR L.J.** Legislation of the 1983 General Assembly, Education, 6 UALR L.J. 622.

**24-7-701. Voluntary retirement.**

(a) An active member who either attains age sixty (60) and has five (5) or more years of actual service or who has twenty-eight (28) or more years of credited service regardless of age may voluntarily retire upon his written application filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(b) Upon his retirement, he shall receive an annuity as provided for in § 24-7-705.

(c) The annuity shall begin the first day of the calendar month next following the latest of:

(1) One (1) month after the date the written application is filed with the board;

(2) The member's termination of active membership;

(3) The member's attainment of the minimum age; or

(4) The member's completion of the minimum years of credited service.

(d) If a member is retiring with an effective date other than July 1, the member may retire effective the first day of a calendar quarter within that fiscal year, subject to the following limitations:

(1) No salary for service within that fiscal year shall be considered in determining final average salary; and

(2) Credited service for service within that fiscal year shall not exceed one-quarter ( $\frac{1}{4}$ ) year for each full calendar quarter elapsed since the beginning of that fiscal year.

(e) If a member is retiring with an effective date other than July 1 or the first day of a calendar quarter within the fiscal year, the following limitations shall apply:

(1) No salary for service within the fiscal year shall be considered in determining final average salary;

(2) Credited service for service within the fiscal year shall not exceed one-quarter ( $\frac{1}{4}$ ) year for each full calendar quarter elapsed since the beginning of the fiscal year; and



(3) Service credit to be used in the computation of benefits shall be computed only on the full calendar quarter completed and shall not include service credit for a partial calendar quarter worked.

(f)(1) If a member has signed an employment contract for a fiscal school year and been paid in full for that fiscal school year, in no event shall the annuity begin earlier than the July 1 next following that fiscal school year.

(2) If a member has signed an employment contract for a fiscal school year and if that contract is not completed, the member shall receive credit for service within the current fiscal year as provided in this section.

(g) The benefits provided by this section shall also be available to an inactive member with twenty-eight (28) or more years of credited service.

**History.** Acts 1973, No. 427, § 9; 1979, No. 681, § 5; 1983, No. 17, § 1; A.S.A. 1947, § 80-1443; Acts 1993, No. 1091, § 2; 1995, No. 282, § 1; 1997, No. 992, § 1; 1997, No. 1053, § 5.

**Amendments.** The 1993 amendment substituted "member's" for "his" in (c); rewrote (d); inserted (e); and redesignated former (e) as (f).

The 1995 amendment deleted "and if the member wishes credit for service within the current fiscal school year" fol-

lowing "July 1" in (d); inserted present (e), redesignating the remaining subsections accordingly; and substituted "shall" for "may" and deleted "subsection (d) of" preceding "this section" in present (f)(2).

The 1997 amendment by No. 992 substituted "twenty-eight (28)" for "thirty (30)" in (a) and (g).

The 1997 amendment by No. 1053 substituted "has five (5) or more years of actual service" for "has ten (10) or more years of credited service" in (a).

## 24-7-702. Early voluntary retirement.

(a) An active or inactive member who has twenty-five (25) or more years of credited service but has not attained age sixty (60) and is not eligible for retirement under the provisions of § 24-7-701 may voluntarily retire early upon his written application filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(b)(1) Upon an active or inactive member's retirement as provided in this section, he shall receive, in lieu of any other system benefit, an early annuity which shall be a certain percent of an annuity provided for in § 24-7-705.

(2) The percent shall be the greater of:

(A) One hundred percent (100%) reduced by five-twelfths percent ( $\frac{5}{12}\%$ ) multiplied by the number of months by which the time of early retirement precedes the earlier of either completion of twenty-eight (28) years of credited service or attainment of age sixty (60); or

(B) One hundred percent (100%) reduced by five-twelfths percent ( $\frac{5}{12}\%$ ) multiplied by the number of months by which the time of early retirement precedes the attainment of age sixty (60).

(3)(A) Effective July 1, 1997, the annuities of those members who chose early retirement when the years of service required for an unreduced annuity was thirty-five (35) or more years shall be adjusted to reflect the amount for which they would have been

entitled had the number of years to retire with an unreduced annuity been thirty (30) years on the effective date of their retirement.

(B) The annuities of those members who chose early retirement from July 1, 1995, through June 30, 1999, who received an early annuity as provided in § 24-7-702 which was in effect at the time of their retirement shall be adjusted effective July 1, 1999, to reflect a percent of the annuity as provided in subdivisions (b)(2)(A) and (b)(2)(B) of this section.

(4) The adjustments described in subdivision (b)(3) of this section shall not be retroactive to the effective date of the member's retirement.

(c) Except for an inactive member, the annuity shall begin the first day of the calendar month next following the latest of:

(1) One (1) month after the date the written application is filed with the board;

(2) The member's termination of active membership; or

(3) The member's completion of the required credited service.

(d) For an inactive member, the annuity shall begin the first day of the calendar month after the date his written application is received by the board.

(e) If a member is retiring with an effective date other than July 1, the member may retire effective the first day of a calendar quarter within that fiscal year, subject to the following limitations:

(1) No salary for service within that fiscal year shall be considered in determining final average salary; and

(2) Credited service for service within that fiscal year shall not exceed one-quarter ( $\frac{1}{4}$ ) year for each full calendar quarter elapsed since the beginning of that fiscal year.

(f) If a member is retiring with an effective date other than July 1 or the first day of a calendar quarter within the fiscal year, the following limitations shall apply:

(1) No salary for service within the fiscal year shall be considered in determining final average salary;

(2) Credited service for service within the fiscal year shall not exceed one-quarter ( $\frac{1}{4}$ ) year for each full calendar quarter elapsed since the beginning of the fiscal year; and

(3) Service credit to be used in the computation of benefits shall be computed only on the full calendar quarter completed and shall not include service credit for a partial calendar quarter worked.

(g)(1) If a member has signed an employment contract for a fiscal school year and been paid in full for that fiscal year, in no event shall the annuity begin earlier than the July 1 next following that fiscal school year.

(2) If a member has signed an employment contract for a fiscal school year and that contract is not completed, the member shall receive credit for service within the current fiscal year as provided in subsection (e) of this section.

(h) The benefits provided by this section shall also be available to an inactive member with twenty-eight (28) or more years of credited service.

**History.** Acts 1973, No. 427, § 9; 1975, No. 549, § 9; 1981, No. 365, § 6; 1983, No. 17, § 2; A.S.A. 1947, § 80-1443; Acts 1993, No. 1091, § 3; 1995, No. 282, § 2; 1997, No. 992, § 2; 1997, No. 1074, § 1; 1999, No. 1521, § 1.

**Amendments.** The 1993 amendment substituted "member's" for "his" in (c); and added (d) and (e).

The 1995 amendment inserted "or inactive" in (a) and (b)(1); added "Except for an inactive member" in (c); inserted present (d) and (f), redesignating former (d) and (e) as present (e) and (g), respectively; deleted "and if the member wishes credit for service within the current fiscal school year" following "July 1" in (e); and substituted "shall" for "may" and "subsection (e)" for "subsection (d)" in (g)(2), and added (h).

The 1997 amendment by No. 992 divided former (b)(2) into present (b)(2) and present (b)(2)(A) by adding "the greater of:" to the end of present (b)(2); added (b)(2)(B); substituted "twenty-eight (28)" for "thirty (30)" in present (b)(2)(A) and (h); and inserted "the sum of ten percent (10%) plus" in present (b)(2)(A).

The 1997 amendment by No. 1074 added (b)(3) and (b)(4).

The 1999 amendment deleted "the sum of ten percent (10%) plus" following "reduced by" in (b)(1)(A); added (b)(3)(B); substituted "adjustments" for "adjustment" in (b)(4); and made stylistic changes.

## 24-7-703. [Repealed.]

**Publisher's Notes.** This section, concerning the ending of accruals at age 72, was repealed by Acts 1989, No. 652, § 11. The former section was derived from Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681,

§§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 805, § 6; A.S.A. 1947, § 80-1443.

## 24-7-704. Disability retirement.

(a)(1)(A) Any member in employer service with five (5) or more years of actual service who becomes, totally and permanently, physically or mentally incapacitated for his duty as a teacher, as the result of a personal injury or disease, may be retired by the Board of Trustees of the Arkansas Teacher Retirement System upon written application filed with the board by or on behalf of the member.

(B) He may be retired only if, after a medical examination of the member made by or under the direction of the medical committee, the medical committee reports to the board, by majority opinion in writing, that the member is physically or mentally totally incapacitated for the further performance of duty, that the incapacity will probably be permanent, and that the member should be retired.

(2) The disability retirement shall be effective the first day of the calendar month next following the later of:

(A) His termination of active membership; or

(B) Six (6) months before the date the written application is filed with the board.

(b) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-7-705 and shall have the right to elect an option provided for in § 24-7-706. His disability retirement shall be subject to the provisions of subsections (c) and (d) of this section and to the provisions of § 24-7-708.



(c)(1) At least once each year during the first five (5) years following a member's retirement on account of disability, and at least once in each three-year period thereafter, the board may require any disability retirant who has not attained age sixty (60) to undergo a medical examination to be made by or under the direction of the medical committee.

(2) If the retirant refuses to submit to the medical examination in any period, his disability annuity may be suspended by the board until his withdrawal of his refusal.

(3) If his refusal continues for one (1) year, all his rights in and to a disability annuity may be revoked by the board.

(4) If, upon the medical examination of the retirant, the medical committee reports to the board that the retirant is physically and mentally able and capable of resuming his duty as a teacher in the position held by him at the time of disability retirement, then his disability retirement shall terminate.

(5) Upon a disability retirant's return to full-time teaching service as defined by rules and regulations determined by the board, his disability retirement shall terminate.

(6) Upon a disability retirant's return to teaching service, he shall immediately again become a member of the system, and his credited service at the time of his disability retirement shall be restored to his credit in the members' deposit account.

(7) In no event shall he be given service credit for the period he was in receipt of the disability annuity.

(d) Should a disability retirant who has not attained age sixty (60) be a full-time employee, as defined by rules and regulations determined by the board, of a public employer whose employees are covered by a retirement plan supported wholly or in part by state contributions, the retirant's disability retirement and his accumulated contributions shall be treated as if he had returned to teaching service, effective on the date of the full-time employment.

**History.** Acts 1973, No. 427, § 9; 1977, No. 541, § 7; 1979, No. 681, § 8; A.S.A. 1947, § 80-1443; Acts 1997, No. 1053, § 6.

**Amendments.** The 1997 amendment

substituted "with five (5) or more years of actual service" for "with ten (10) or more years of credited service" in (a)(1)(A).

## 24-7-705. Life annuity.

(a)(1)(A) After July 1, 1999, upon a member's retirement, he shall receive a straight life annuity equal to his number of years of credited service for which member contributions were made as provided in § 24-7-406 multiplied by not less than two and sixty-five thousandths percent (2.065%) nor more than two and fifteen-hundredths percent (2.15%) of his final average salary, or a straight life annuity equal to his number of years of credited service rendered after June 30, 1986, for which no member contributions were made as provided in § 24-7-406 multiplied by not less than one and three hundred five thousandths percent (1.305%) nor more than one and thirty-nine

hundredths percent (1.39%) of his final average salary, or a combination of both.

(B) The percentages in subdivision (a)(1)(A) of this section shall be determined in accordance with rules and regulations of the Board of Trustees of the Arkansas Teacher Retirement System as is actuarially appropriate for the system.

(C) Prior to increasing a benefit as provided in this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Committee on Public Retirement and Social Security Programs.

(2)(A) For a member contributing on only the first seven thousand eight hundred dollars (\$7,800) of each annual salary after June 30, 1969, each annual salary used in computing his final average salary shall be limited to a maximum of seven thousand eight hundred dollars (\$7,800).

(B) The limit shall apply to his total credited service.

(3) For a member retiring with benefits to be computed on both contributory and noncontributory service under subsection (a) of this section and free military service first credited after July 1, 1986, under § 24-7-602, the amount of military service to be used in the computation of benefits under subsection (a) of this section shall be prorated on the ratio of membership service under each plan to his total membership service, notwithstanding the fact that some of the military service shall be credited as noncontributory service before July 1, 1986.

(4) All purchased military service, all out-of-state service credited under § 24-7-603, and all overseas service credited under § 24-7-604 shall be counted as contributory service, and benefits based on this service shall be computed using the contributory percent of final average salary set forth in subsection (a) of this section.

(b)(1) The minimum straight life annuity for a member retiring after June 30, 1965, but before July 1, 1986, shall be one hundred fifty dollars (\$150) per month.

(2) For a member retiring July 1, 1986, or later, the minimum straight life annuity shall be:

(A) One hundred dollars (\$100) per month if the member has no noncontributory credited service of the type specified in subdivision (a)(1) of this section. Effective July 1, 1998, for members with ten (10) or more years of contributory credited service of the type specified in subdivision (a)(1) of this section, the amount shall be one hundred fifty dollars (\$150) per month;

(B) Sixty-four dollars (\$64.00) per month if the member has only credited service of the noncontributory type specified in subdivision (a)(1) of this section. Effective July 1, 1998, for members with ten (10) or more years of noncontributory credited service of the type specified in subdivision (a)(1) of this section, the amount shall be ninety-four dollars (\$94.00) per month; or

(C)(i) If the member has a mixture of credited service, the monthly amount shall be prorated between sixty-four dollars (\$64.00) and one

hundred dollars (\$100) according to the relationship between his noncontributory credited service and his total credited service. Effective July 1, 1998, for members with ten (10) or more years of credited service, the amount shall be prorated between ninety-four dollars (\$94.00) and one-hundred fifty dollars (\$150) per month, according to the relationship between the member's noncontributory credited service and total credited service.

(ii) Provided, however, if the member has at least five (5) years of contributory service, regardless of his number of years of noncontributory service, his monthly amount shall not be less than one hundred dollars (\$100), or if the member has at least ten (10) years of contributory service, regardless of his number of years of noncontributory service, his monthly amount shall not be less than one hundred fifty dollars (\$150).

(c) As of 1986, the member contributory benefit program and the member noncontributory benefit program were related by requiring the same employer contribution rate. It is intended that this relationship be preserved by future changes, if any, in benefit programs.

(d) Upon a member's retirement, as provided in this act, he shall have the right to elect an option provided for in § 24-7-706.

(e) A member retiring before July 1, 1987, shall receive an annuity in accordance with provisions of law in force before July 1, 1987.

**History.** Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681, §§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 504, § 3; A.S.A. 1947, § 80-1443; Acts 1987, No. 802, § 1; 1989, No. 652, § 9; 1991, No. 44, §§ 1, 2; 1993, No. 435, § 7; 1995, No. 542, § 6; 1997, No. 992, § 3; 1997, No. 1053, § 7; 1999, No. 221, § 1; 1999, No. 396, § 1.

**Amendments.** The 1993 amendment added the proviso at the end of (c)(2)(C).

The 1995 amendment rewrote this section.

The 1997 amendment by No. 992 in (a)(1) substituted "multiplied by two and sixty-five thousandths percent (2.065%)" for "multiplied by two and five hundredths percent (2.05%)" and "multiplied by one and three hundred and five thousandths

percent (1.305%)" for "multiplied by one and twenty nine hundredths percent (1.29%)."

The 1997 amendment by No. 1053 substituted "One hundred dollars (\$100)" for "One hundred fifty dollars (\$150)" in (b)(2)(A), (C) and (b)(2)(C)(ii); substituted "Sixty-four dollars (\$64.00)" for "Ninety-four dollars (\$94.00)" in (b)(2)(B) and (C); and substituted "at least five (5) years" for "at least ten (10) years" in (b)(2)(C)(ii).

The 1999 amendment by No. 221 added the language beginning "Effective July 1, 1998, for members" to the end of (b)(2)(A), (b)(2)(B), (b)(2)(C); made minor punctuation changes; and made stylistic changes.

The 1999 amendment by No. 396 rewrote (a)(1); and made stylistic changes.

**Meaning of "this act".** Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

## 24-7-706. Annuity options.

(a)(1) Before the date the first payment of his annuity becomes due, but not thereafter, a member may elect to receive his annuity as a straight life annuity, or he may elect to receive the actuarial equivalent,



at that time, of his straight life annuity in a reduced annuity payable throughout his life.

(2) The member may nominate a beneficiary, in accordance with the provisions of one (1) of the following options:

(A) OPTION A — 100% SURVIVOR ANNUITY.

(i) Under Option A, upon the death of a retirant, his reduced annuity shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the board before the date the first payment of his annuity becomes due.

(ii)(a) The person must be either his spouse for not less than one (1) year immediately preceding the first payment due date, or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(b) However, the age forty (40) requirement shall not exclude the designation as beneficiary of a dependent child who has been ruled physically or mentally incompetent either by an Arkansas court of competent jurisdiction or by the Board of Trustees of the Arkansas Teacher Retirement System;

(B) OPTION B — 50% SURVIVOR ANNUITY.

(i) Under Option B, upon the death of a retirant, one-half ( $\frac{1}{2}$ ) of his reduced annuity shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the board before the date the first payment of his annuity becomes due.

(ii)(a) The person must be either his spouse for not less than one (1) year immediately preceding the first payment due date, or another person aged forty (40) or older receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant for not less than one (1) year immediately preceding the first payment due date.

(b) However, the age forty (40) requirement shall not exclude the designation as beneficiary of a dependent child who has been ruled physically or mentally incompetent either by an Arkansas court of competent jurisdiction or by the board;

(C) OPTION C — ANNUITY FOR TEN (10) YEARS CERTAIN AND LIFE THEREAFTER.

(i) Under Option C, a retirant shall receive a reduced annuity payable throughout his life with the provision that if he dies before he has received one hundred twenty (120) monthly annuity payments, the payments will be continued for the remainder of the period of one hundred twenty (120) months and paid to such persons in equal shares as the retirant shall have nominated by written designation duly executed and filed with the board.

(ii) If the designated beneficiaries predecease the retirant, the retirant may nominate successor beneficiaries or may elect to return to his single lifetime benefit equivalent by written designation duly executed and filed with the board to be effective the month following receipt of his election by the Arkansas Teacher Retirement System.

(iii) If no designated beneficiary survives him, the annuity reserve for the remainder of the annuity payments shall be paid to the retirant's estate.

(iv) If the last designated beneficiary receiving annuity payments dies before all annuity payments are made, the annuity reserve for the remainder of the annuity payments shall be paid to the beneficiary's estate.

(v) Effective the month following completion of the one-hundred-twenty-month period, the retirant's annuity shall return to his single lifetime benefit equivalent.

(b)(1) At the written election of the retirant, the death of the beneficiary or divorce or other marriage dissolution after retirement from a spouse designated as beneficiary shall cancel any optional plan elected at retirement and shall return the retirant to his single lifetime benefit equivalent, to be effective the month following receipt of his election by the system.

(2)(A) A retirant who is receiving a single lifetime benefit and who marries after retirement may elect to cancel his single lifetime benefit and may elect Option B providing continuing lifetime benefits to his spouse, but only if the election is on a form approved by the system and is received by the system not earlier than the date of the marriage and not later than six (6) months thereafter.

(B) The election shall be effective the first day of the month following its receipt.

(c) If a member fails to elect an option, his annuity shall be paid him as a straight life annuity.

(d)(1) Notwithstanding anything contained in this section to the contrary, the beneficiary may elect to cancel the form of annuity in effect and elect Option A — 100% Survivor Annuity upon the death of a retirant on or after July 1, 1989, if:

(A) The retirant died within one (1) year following the effective date of retirement; and

(B) The retirant was receiving a straight life annuity.

(2) Such election to change may be made only once and must be on a form approved by the system.

(3) The election form must be received by the system within thirty (30) days after February 7, 1991, or within ninety (90) days of the death of the retiree, whichever is later.

(e)(1) Notwithstanding anything in this section to the contrary, a retirant who retired on or after July 1, 1994, may elect to cancel his election made at retirement for receiving an annuity and elect another option, provided:

(A) He does so within one (1) year after July 1, 1995, or within one (1) year of retirement;

(B) He files with the system a new election form approved by the system; and

(C)(i) He repays to the system the difference between the amount of the annuity received when he retired and the new annuity due as

a result of the election change, plus regular interest from July 1, 1994, or his retirement date, whichever is later, to the date of payment in full.

(ii) The difference shall be calculated retroactively to July 1, 1994, or his retirement date, whichever is later.

(2) The election to change shall be made only once.

(3) The election change shall be effective retroactively to the effective date of his annuity.

**History.** Acts 1973, No. 427, § 9; 1977, No. 541, § 5; 1979, No. 681, § 7; 1983, No. 619, § 10; 1983, No. 665, § 10; A.S.A. 1947, § 80-1443; Acts 1991, No. 51, § 1; 1995, No. 528, § 1; 1999, No. 395, §§ 1, 2; 1999, No. 866, § 7.

**Amendments.** The 1995 amendment added (e).

The 1999 amendment by No. 395, in (a)(2)(C)(ii), inserted "or may elect to return to his single lifetime benefit equivalent" following "successor beneficiaries"

and added "to be effective the month following receipt of his election by the Arkansas Teacher Retirement System" at the end; added (a)(2)(C)(v); in (b)(1), deleted "to provide continuing lifetime benefits to the beneficiary" following "plan elected at retirement"; and made stylistic changes.

The 1999 amendment by No. 866 substituted "ninety (90) days" for "thirty (30) days" in (d)(3); deleted (d)(4); and made stylistic changes.

## **24-7-707. Deferred annuity.**

(a)(1) Should an active member cease to be an active member before attaining age sixty (60), other than by death or retirement, but after completing five (5) years of actual service, he shall become an inactive member and shall be entitled to a deferred annuity as provided for in this section, but only if he does not withdraw his accumulated contributions from the members' deposit account and is not employed in a position covered by another retirement plan which is supported wholly or in part by state contributions.

(2) The deferred annuity shall commence as of the first day of the calendar month next following the later of:

(A) His deferred annuity age; or

(B) The date his written application is received by the Board of Trustees of the Arkansas Teacher Retirement System.

(3) Deferred annuity age is age sixty (60) for all members eligible for a deferred annuity and who do not have twenty-five (25) or more years of credited service.

(4) A member shall have the right to elect an option provided for in § 24-7-706 at the time of filing the written application.

(b) An inactive member's deferred annuity shall be a life annuity as provided for in § 24-7-705 if his annuity deferment age is sixty (60) or over, or as provided for in § 24-7-702 if his annuity deferment age is under age sixty (60).

(c)(1) An inactive member otherwise entitled to a deferred annuity shall be entitled to a deferred annuity only if he lives to his annuity deferment age and if written application for a deferred annuity is received from him by the board.



(2) In the event the inactive member does not so live, or in the event the written application is not received by the board, no benefits whatsoever shall be paid except under the provisions of § 24-7-711.

**History.** Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681, §§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 805, § 7; A.S.A. 1947, § 80-1443; Acts 1995, No. 281, § 1; 1997, No. 1053, § 8.

**Amendments.** The 1995 amendment rewrote (a)(3); and made a stylistic change.

The 1997 amendment substituted “five (5) years of actual service” for “ten (10) years of credited service” in (a)(1).

## 24-7-708. Conditions subjecting annuities to limitations.

(a) Except for a waiver as provided for in subsection (f) of this section, if a retirant is an employee of a public employer whose employees are covered by the Arkansas Teacher Retirement System, then, for each twelve-month period ending June 30, the amount of his or her system annuity shall be subject to the limitations equivalent to twice the limitations imposed by the social security retirement test.

(b) For each year ending June 30, the social security retirement test to be considered shall be the test in effect for the calendar year beginning the January 1 immediately preceding June 30. The retirant’s earnings shall be his or her remuneration for such employment for the year ending June 30.

(c) The Board of Trustees of the Arkansas Teacher Retirement System shall establish equivalent limitations by appropriate rules and regulations.

(d) Receiving remuneration as an employee from any private employer or as a member of the General Assembly shall not affect payment of an annuity.

(e) During any period of employment in a position covered by the system, a retirant shall not accrue additional credited service nor shall he or she contribute to the system.

(f) In accordance with rules and regulations adopted by the State Board of Education, the Department of Education may request of the board of trustees, or its designee, a waiver of the conditions subjecting annuities to limitations. If approved by the board of trustees, or its designee, the waiver shall be effective for a one-year period, with the option to review annually as requested by the Department of Education.

**History.** Acts 1973, No. 427, § 9; 1975, No. 549, § 13; 1977, No. 541, § 8; A.S.A. 1947, § 80-1443; Acts 1991, No. 43, § 7; 1991, No. 239, § 1; 1995, No. 1293, § 1; 1997, No. 384, § 1; 1999, No. 30, § 1.

**Amendments.** The 1995 amendment added (f).

The 1997 amendment deleted (f).

The 1999 amendment substituted “Except for a waiver as provided for in subsection (f) of this section, if a retirant” for “If a retirant” in (a); added (f); and made stylistic changes.

**24-7-709. Disposition of residue.**

(a) If a retirant and his eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions standing to the retirant's credit in the members' deposit account at the time of his retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such persons as the retirant shall have nominated by written designation duly executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(b) If no designated person survives the retirant and his beneficiary, the difference, if any, shall be paid to the estate of the survivor of the retirant and his beneficiary.

**History.** Acts 1973, No. 427, § 9;  
A.S.A. 1947, § 80-1443.

**24-7-710. Survivor benefits.**

(a) If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, then the applicable benefits provided in this section shall be paid.

(b)(1) The member's surviving spouse, who was married to the member for at least the two (2) years immediately preceding his death, shall receive an annuity computed in the same manner in all respects as if the member had:

(A) Retired the date of his death with entitlement to an annuity provided for in § 24-7-705, notwithstanding that he might not have attained age sixty (60) or acquired five (5) years of actual service;

(B) Elected Option A — One hundred percent (100%) survivor annuity, as provided for in § 24-7-706; and

(C) Nominated his spouse as joint beneficiary.

(2) If, at the time of the member's death, there are no dependent children, and the surviving spouse, who would otherwise receive the annuity under this subsection, has filed with the Arkansas Teacher Retirement System a signed written waiver of his right to the annuity and that waiver was in effect at the time of the member's death, a lump sum distribution of the deceased member's accumulated contributions, plus regular interest, may be made to any beneficiary or beneficiaries so designated by the member before death.

(3) If the member had satisfied the age and service requirements provided for in § 24-7-701 or had acquired twenty (20) years of credited service, the spouse annuity shall commence immediately and be payable for the spouse's life; or, if the member had acquired fifteen (15) years of credited service but had not attained age sixty (60), then the spouse annuity shall commence at the later of age fifty (50) or the spouse's age at his death and be payable until the earlier of the spouse's remarriage or death; otherwise, the spouse annuity shall commence at

the later of age sixty-two (62) or the spouse's age at his death and be payable until the earlier of the spouse's remarriage or death.

(4) The spouse annuity shall not be less than the greater of ten percent (10%) of the deceased member's covered salary at the time of death or fifty dollars (\$50.00) monthly. These amounts shall apply if the member had no member noncontributory service of the type specified in § 24-7-705(a)(6) [repealed].

(5) If the member had only the noncontributory credited service, then the amounts shall be six percent (6%), instead of ten percent (10%), and thirty-one dollars (\$31.00), instead of fifty dollars (\$50.00); or, if the member had a mixture of credited service, the minimum amount shall be prorated between the all-contributory minimum amount and the all-noncontributory minimum amount according to the relationship between his noncontributory credited service and his total credited service.

(6) In any event, as long as the surviving spouse has in his or her care any of the deceased member's dependent children receiving a benefit as provided for in subsection (c) of this section, there shall be payable to the spouse a spouse annuity of not less than the minimum amount determined according to subdivision (b)(4) of this section.

(c)(1) The member's dependent children shall each receive an annuity of the greater of ten percent (10%) of the member's covered salary at the time of death or fifty dollars (\$50.00) monthly; however, if there are three (3) or more dependent children, each dependent child shall receive an annuity of an equal share of the greater of twenty-five percent (25%) of the member's covered salary or one hundred twenty-five dollars (\$125) monthly. These amounts shall apply if the member had no member noncontributory credited service of the type specified in § 24-7-705(a)(6).

(2) If the member had only the noncontributory credited service, then the amounts shall be six percent (6%), instead of ten percent (10%), and thirty-one dollars (\$31.00), instead of fifty dollars (\$50.00), and sixteen percent (16%), instead of twenty-five percent (25%), and seventy-nine dollars (\$79.00), instead of one hundred twenty-five dollars (\$125); or, if the member had a mixture of credited service, the amounts payable shall be prorated between the all-contributory amounts and the all-noncontributory amounts according to the relationship between his noncontributory credited service and his total credited service.

(3)(A) A child shall be a dependent child until his death, his marriage, or his attainment of age eighteen (18), whichever comes first.

(B)(i) However, the age eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university, but in no event beyond his attainment of age twenty-three (23).

(ii) The age eighteen (18) maximum shall also be extended for any child who has been deemed physically or mentally incompetent either by an Arkansas court of competent jurisdiction or by the Board of



Trustees of the Arkansas Teacher Retirement System, for as long as the incompetency exists.

(4) Upon a child's ceasing to be a dependent child, his annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(d)(1) If, at the time of the member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of ten percent (10%) of the member's covered salary or fifty dollars (\$50.00) monthly, but only if the board finds that the parent was dependent for at least fifty percent (50%) of his financial support upon the member. These amounts shall apply if the member had no member noncontributory service of the type specified in § 24-7-705(a)(6) [repealed].

(2) If the member had only the noncontributory credited service, then the amounts shall be six percent (6%), instead of ten percent (10%), and thirty-one dollars (\$31.00), instead of fifty dollars (\$50.00); or, if the member had a mixture of credited service, the amount shall be prorated between the all-contributory amount and the all-noncontributory amount according to the relationship between his noncontributory credited service and his total credited service.

(e)(1) In the event all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the members' deposit account at the time of his death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board.

(2) If there is no designated person surviving at termination, the difference shall be payable in the following statutory succession: spouse, children, parents, estate.

(f) Annuities payable under the provisions of this section shall commence the first day of the calendar month next following the later of the date of the member's death or a later date specified for commencement of annuity payments.

(g) In the event the member had previously received benefits from the system and has not repaid in full all amounts payable by him to the system, the annuity amounts otherwise provided by this section shall be withheld and used to effect repayment until the total of the withholdings repays in full all amounts payable by him to the system.

**History.** Acts 1973, No. 427, § 9; 1975, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; 1979, No. 681, §§ 5-12; 1979, No. 776, §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, § 2; 1983, No. 127, § 2; 1983, No. 619, §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 504, § 4; A.S.A. 1947, § 80-1443; Acts 1987, No. 4, § 3; 1997, No. 1053, § 9.

**Publisher's Notes.** Section 24-7-705, referred to in this section, did not have a subdivision (a)(6) after its 1995 amendment.

**Amendments.** The 1997 amendment substituted “acquired five (5) years of actual service” for “acquired ten (10) years of credited service” in (b)(1)(A).

**24-7-711. Disposition of accumulated contributions upon membership termination.**

(a)(1) In the event a member ceases to be a member other than by death or retirement prior to satisfying the age and service requirements of either § 24-7-701 or § 24-7-702, he shall be paid, within six (6) months following the date his written application is filed with the Board of Trustees of the Arkansas Teacher Retirement System, his accumulated contributions standing to his credit in the members’ deposit account.

(2) Any contributions remaining on deposit shall accrue interest at the end of each fiscal year as provided by § 24-7-410(d).

(b)(1) In the event a member dies and no annuity becomes, or can become, payable by the Arkansas Teacher Retirement System on account of his death, his accumulated contributions standing to his credit in the members’ deposit account at the time of his death, together with regular interest thereon from the time of death to the time of payment, shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the board.

(2) If there are no designated persons surviving the member, the accumulated contributions shall be paid in the following statutory succession: Spouse, children, parents, estate.

(3) If no annuity can become payable to a dependent child on account of the member’s death and if the sole beneficiary who could receive the annuity is the surviving spouse, then the surviving spouse may elect to receive a refund of accumulated contributions in place of any benefits being paid under the provisions of § 24-7-710.

**History.** Acts 1973, No. 427, § 9; 1975, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; § 2; 1983, No. 127, § 2; 1983, No. 619, 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 1979, No. 681, §§ 5-12; 1979, No. 776, 805, § 8; A.S.A. 1947, § 80-1443. §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365,

**24-7-712. Determination of benefit program.**

Any member last terminating teacher service before July 1, 1973, shall receive, or shall have paid on his behalf, benefits in accordance with the benefit program in effect at the time of retirement.

**History.** Acts 1973, No. 427, § 9; 1975, §§ 6, 7; 1981, No. 435, § 2; 1983, No. 17, No. 549, §§ 6-13; 1977, No. 541, §§ 5-8; § 2; 1983, No. 127, § 2; 1983, No. 619, 1977, No. 640, §§ 1, 2; 1977, No. 727, § 1; §§ 9-11; 1983, No. 665, §§ 9-11; 1985, No. 1979, No. 681, §§ 5-12; 1979, No. 776, 805, § 9; A.S.A. 1947, § 80-1443. §§ 1, 2; 1981, No. 14, § 1; 1981, No. 365,

**24-7-713. Monthly benefits — Redetermination.**

(a)(1) Beginning with the July 1 which is at least twelve (12) full months after the effective date of a monthly benefit, the amount of the benefit shall be redetermined effective each July 1, and the redetermined amount shall be payable for the ensuing year.

(2) The redetermined amount shall be the base amount multiplied by the following percent: One hundred percent (100%) plus three percent (3%) for each full year, but excluding any fraction of a year, in the period from the effective date of the base amount to the current July 1.

(3) In no event shall the redetermined amount be less than the base amount.

(4) As used in this section:

(A) "The amount of the benefit otherwise payable" means the monthly amount of the benefit which would be payable disregarding the provisions of this section redetermining benefit amounts after retirement;

(B)(i) "Base amount" means the monthly amount of the benefit upon which benefit redeterminations after retirement are based, as provided in this section.

(ii) Base amount includes the amount of the benefit otherwise payable plus any one-time increase or increases granted by legislative change.

(iii) The effective date of the base amount shall be the effective date of the benefit or, if any, the effective date of the last increase in base amount, whichever is later.

(b)(1) Effective July 1, 1999, subject to the minimum financial conditions set forth in § 24-7-718, retirees and beneficiaries shall receive an increase in benefits of not less than fifty dollars (\$50.00) per month. Provided, the Board of Trustees of the Arkansas Teacher Retirement System may elect and is granted authority to increase the benefit to retirees in an amount determined by the board, except that the benefit increase shall not exceed one hundred twenty-five dollars (\$125) per month.

(2) Members retiring after July 1, 1999, shall receive an additional benefit of not less than fifty dollars (\$50.00) per month over and above their regular annuity. Provided, the board may elect and is granted authority to increase the additional benefit to members retiring in an amount determined by the board, except such additional benefit shall not exceed one hundred twenty-five dollars (\$125) per month.

(3) In its discretion, the board may prorate the benefits provided under this subsection for all individuals retiring after June 30, 1999, if the individual is also eligible for an additional monthly benefit as a result of credited service under one (1) or more of the other reciprocal systems, as such systems are enumerated in § 24-2-401.

(c) Nothing contained in this section shall require the Arkansas Public Employees' Retirement System to pay any portion of the benefits provided for in this section.



**History.** Acts 1973, No. 427, § 9; 1975, No. 549, § 8; 1979, No. 776, § 2; 1981, No. 14, § 1; 1983, No. 127, § 2; 1985, No. 162, § 1; A.S.A. 1947, § 70-1443; Acts 1987, No. 802, § 2; 1991, No. 44, § 3; 1999, No. 400, § 1; 1999, No. 1066, § 7; 1999, No. 1590, § 3.

**A.C.R.C. Notes.** Pursuant to § 1-2-207, the amendment of subsection (b) by Acts 1999, No. 400 is deemed to be superseded by the amendment by Acts 1999, No. 1590. Acts 1999, No. 400 amended subsection (b) to read as follows: “(b)(1) Effective July 1, 1999, subject to the minimum financial conditions set forth in § 24-7-718, retirees shall receive an increase in benefits of not less than fifty dollars (\$50.00) per month, provided that the board of trustees may elect and is granted authority to increase the benefit to retirees in an amount determined by the board except such benefit increase shall not exceed one hundred twenty-five dollars (\$125) per month.

“(2) Members retiring after July 1, 1999, shall receive an additional benefit of not less than fifty dollars (\$50.00) per month over and above their regular annuity, provided the board may elect and is granted authority to increase the additional benefit to members retiring in an

amount determined by the board except such additional benefit shall not exceed one hundred twenty-five dollars (\$125) per month.

“(3) If an individual is also receiving benefits as a result of credited service under one (1) or more of the other reciprocal systems, as such systems enumerated in Arkansas Code 24-2-401, that individual shall receive a prorated portion of the amount from the system.

“(4) The prorated portion shall be determined by dividing the years of credited service with the Arkansas Teacher Retirement System by the member’s or deceased member’s total years of credited service with all reciprocal systems provided the individual receiving such benefits shall receive the additional amounts set out in subsection (b) of this section in total from such systems if the member or deceased member was employed at least five (5) years in each of the reciprocal systems.”

**Amendments.** The 1999 amendment by No. 400 rewrote (a) and (b).

The 1999 amendment by No. 1066 added (c).

The 1999 amendment by No. 1590 added “and beneficiaries” preceding “shall receive an” in (b)(1); rewrote (b)(3); deleted (b)(4); and made stylistic changes.

## **24-7-714. Increase in monthly benefits — Acts 1979, No. 655 and Acts 1981, No. 885.**

(a) The monthly retirement benefit payable to retirants and beneficiaries of the Arkansas Teacher Retirement System who were retired on or before July 1, 1978, and who were receiving benefits on July 1, 1979, shall be increased as follows:

(1) For all benefits to retirants and beneficiaries of the system whose total credited service is before July 1, 1961, a monthly benefit increase equal to one dollar (\$1.00) per each year of credited service;

(2) For all benefits to retirants and beneficiaries of the system which are based in whole or in part upon credited service rendered after July 1, 1961, a monthly benefit increase equal to seventy-five cents (\$0.75) per each year of credited service;

(3) For benefit increases authorized by subdivisions (a)(1) and (2) of this section, fractional years of service shall be disregarded, and the increase shall be added to the monthly annuity after the annual postretirement increase based on the consumer price index has been applied to the retirant’s base annuity; and

(4) In the event that there is more than one (1) beneficiary or survivor of a member or retirant receiving benefits, the increases in subdivisions (a)(1) and (2) of this section shall be based upon the

member's total credited service. The benefit increase so determined shall be divided between the survivors or beneficiaries in proportion to their base annuities.

(b) For retirements effective after July 1, 1978, for which a monthly benefit is payable for the month of July 1981 or later, calculations shall be made as provided in subdivisions (b)(1) and (2) of this section. If the monthly benefit calculated using subdivision (b)(1) of this section is more than the monthly benefit calculated using subdivision (b)(2) of this section, then the difference shall be paid to the retirant as a monthly benefit increase, subject to the provisions of subdivisions (b)(3)-(6) of this section, as follows:

(1) Calculate the monthly annuity payable to the member under § 24-7-705, based on the provisions of § 24-7-705, his salary record, and his service record, all as of July 1, 1978, and add seventy-five cents (\$0.75) for each year of the member's credited service rendered before July 1, 1978;

(2) Calculate the monthly annuity payable to the member under the provisions of § 24-7-705 in effect at the time of the member's retirement;

(3) For benefit increases authorized by this subsection, fractional years of service shall be disregarded. The increase shall be added to the monthly annuity after the annual postretirement increase based on the consumer price index has been applied to the retirant's base annuity;

(4) In the event that there is more than one (1) beneficiary or survivor of a member or retirant receiving benefits, the increases in this subsection shall be based upon the member's total credited service, and the benefit increase so determined shall be divided between the survivors or beneficiaries in proportion to their base annuities;

(5) Any benefit increase created by this subsection shall be effective at retirement but not for any month before July 1981; and

(6) If there is any change in § 24-7-705 after the member's retirement, the amount under subdivision (b)(2) of this section shall be recalculated using the changed provisions, and the benefit increase provided by this subsection shall be changed correspondingly.

**History.** Acts 1979, No. 655, § 1; 1981, No. 885, § 1; A.S.A. 1947, § 12-2511.20.

**Cross References.** Increased benefits, § 24-4-610.

### **24-7-715. Benefit rights not subject to legal process.**

(a)(1) The right of a person to an annuity, to the return of accumulated contributions, to the annuity itself, to any annuity option, and to any other right accrued or accruing under the provisions of this act, and all moneys belonging to the Arkansas Teacher Retirement System, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this act.

(2) However, the employer shall have the right of setoff for any claim arising from embezzlement by, or fraud of, a member, retirant, or beneficiary.

(b) In the event an individual is no longer an active teacher or employee of any public school district in this state, nor on leave of absence, and is found by any court of competent jurisdiction of this state to be willfully refusing or failing to support minor dependent children of the individual in violation of a court order providing for such support, although the individual is financially able to do so, then the court may, in its discretion, order the accumulated contributions, annuity or annuity options, or any other funds accruing under the provisions of this act to be paid into the registry of the court for such further disposition as the court shall deem just and proper.

(c)(1) If, under the provisions of subsection (b) of this section, there is created a court order which directs payment of all, or a portion of, a person's accumulated contributions, the payment shall be made by the system to the court.

(2) The person shall be notified by the system of the payment and shall be given an opportunity to redeposit with the system the amount of the payment.

(3) If the payment is not redeposited, then any system annuity otherwise payable to, or on behalf of, the person shall be reduced in the proportion that the payment bears to the person's accumulated contributions before the payment.

**History.** Acts 1973, No. 427, § 9; 1977, No. 727, § 1; 1983, No. 619, § 11; 1983, No. 665, § 11; A.S.A. 1947, § 80-1443.

**Meaning of "this act".** See note to § 24-7-705.

## RESEARCH REFERENCES

**Ark. L. Notes.** Laurence, Recent Developments in the Arkansas Law of Garnishment: A Compendium of the Pertinent Cases and Statutes, 1992 Ark. L. Notes 39.

Laurence, On Worthen, Walker and Dicta: The Supreme Court Shoots the Breeze About Exemption Law, 1993 Ark. L. Notes 73.

## CASE NOTES

### ANALYSIS

Construction.  
Affirmative defense.

### Construction.

Section 23-79-134(a) and subsection (a) of this section exempt annuity contracts from garnishment. Walker v. Walker, 303 Ark. 34, 791 S.W.2d 710 (1990).

Section 23-79-134(a) and subsection (a) of this section do not conflict with the personal exemptions provisions provided under Ark. Const., art. 9, § 1. Walker v.

Walker, 303 Ark. 34, 791 S.W.2d 710 (1990).

The provisions of § 23-79-134(a) and subsection (a) are not absolute personal exemptions like those contemplated by Ark. Const., Art. 9, §§ 1 and 2. Walker v. Walker, 303 Ark. 34, 791 S.W.2d 710 (1990).

### Affirmative Defense.

The provisions of § 23-79-134(a) and subsection (a) of this section are not personal property exemptions that can only be asserted and scheduled by the debtor;



instead, these prohibitions against garnishment can be raised as an affirmative defense by garnishees. *Walker v. Walker*, 303 Ark. 34, 791 S.W.2d 710 (1990).

#### **24-7-716. Lump-sum payment of reserve value of small annuity.**

(a) The Arkansas Teacher Retirement System may pay the reserve value of any annuity benefit to a retirant or beneficiary when the annuity amount is less than twenty dollars (\$20.00) per month, except that the consent of the payee shall be required if the payment exceeds one thousand seven hundred fifty dollars (\$1,750).

(b) The reserve value shall be the actuarial equivalent of the annuity otherwise payable.

(c) Any lump-sum payment so made shall be a complete discharge of all liability under the system with respect to the annuity.

**History.** Acts 1973, No. 427, § 9; 1985, No. 805, § 10; A.S.A. 1947, § 80-1443.

#### **24-7-717. Rescission of termination of active membership.**

(a) A retirant under this chapter who has not attained age seventy-two (72) may rescind the decision to terminate active membership and may become an active member upon reemployment.

(b) Persons rescinding their decisions to terminate active membership shall file a written rescission on the form furnished by the Board of Trustees of the Arkansas Teacher Retirement System.

(c) The rescission shall become effective the first day of the calendar month next following the date the written rescission is received by the board.

(d)(1) Upon rescission, a former retirant shall be considered an active member and shall accrue additional credited service subject to the provisions of subsection (e) of this section.

(2) Any annuity benefit formerly due from the Arkansas Teacher Retirement System shall be terminated upon the effective date of the rescission.

(e)(1)(A) If reemployment terminates before the end of the fiscal year in which a former retirant has accumulated at least three (3) years of credited service, the former retirant shall become a retired member, and the payment of the annuity shall resume upon such termination.

(B) The former retirant shall be entitled to receive any member contributions which may have been made during the reemployment period.

(2) If reemployment terminates after the end of the fiscal year in which the former retirant has accumulated at least three (3) years of credited service, then upon termination of reemployment, the former retirant shall become a retired member and receive an annuity which has been recalculated according to the benefit formula in effect at the time of such termination of reemployment.

(f) Effective July 1, 1993, if a retirant has previously rescinded his decision to terminate active membership and has become an active

member by reemployment, but after becoming a retirant and before rescinding had been employed in a position covered by the system, as an active member he shall be eligible to purchase such previous service by:

(1) Fulfilling the requirements set out in subdivision (e)(2) of this section;

(2) Returning to the system all retirement benefits received during such employment, together with regular interest from the date of receipt of such payments to the date of repayment in full; and

(3) Paying to the system both member and employer contributions for the previous service rendered after becoming a retirant but before rescinding, plus regular interest from the date of reemployment to the date of payment in full.

**History.** Acts 1989, No. 39, § 1; 1993, No. 435, § 8; 1993, No. 478, § 1.

**Amendments.** The 1993 amendment by No. 435, in (a), substituted “24-7-718” for “24-7-713” and deleted “and who meets all certification requirements to fill a po-

sition in the public schools of this state” following “seventy-two (72) years”; and made a minor stylistic change in (c).

The 1993 amendment by No. 478 added (f).

## **24-7-718. Minimum financial conditions for benefit increases.**

(a) For an increase in benefit formulas to be effective, the regular annual actuarial valuation for the calendar year immediately preceding the effective date of the increase shall be based upon an investment rate assumption of no more than eight percent (8%) and shall indicate that up to and including a twelve percent (12%) of pay employer contribution rate is sufficient to amortize all unfunded actuarial accrued liabilities for members over a period of thirty (30) years or less.

(b) For any increase to be effective on a scheduled date, all increases scheduled for that date must collectively meet the minimum financial conditions.

(c)(1) On any scheduled date that the increases do not collectively meet the minimum financial conditions, the Board of Trustees of the Arkansas Teacher Retirement System shall have the authority to delay the increase until the minimum financial conditions are met.

(2) Such delayed increase shall only be given on a July 1 and shall be the increase set out in §§ 24-7-705(a)(5) [repealed], 24-7-705(a)(6) [repealed], and 24-7-713(b)(1).

**History.** Acts 1991, No. 44, § 4.

**Publisher's Notes.** Section 24-7-705, referred to in this section, did not have a

subdivision (a)(5) nor a subdivision (a)(6) after its 1995 amendment.

## **24-7-719. Rollover of distributions.**

(a) As used in this section:

(1) “Direct rollover” means the payment of an eligible distribution to an individual retirement arrangement or another employer benefit plan;

(2) "Eligible rollover distribution" means that portion of a distribution which may be rolled over to an individual retirement arrangement or to another employer benefit plan; and

(3) "Eligible retirement plan" means an individual retirement account or individual retirement annuity or individual retirement arrangement or another employer benefit plan which accepts direct rollovers.

(b) Beginning January 1, 1993, should a member, or spouse, if the member is deceased, elect to make a direct rollover of a distribution from the Arkansas Teacher Retirement System to an eligible retirement plan of all or part of his eligible rollover distribution, the amount shall be paid to the trustee of the eligible retirement plan.

(c) Subsection (b) of this section shall apply to distributions made under §§ 24-7-709 — 24-7-711, and 24-7-716.

**History.** Acts 1993, No. 972, § 1.

#### **24-7-720. Lump-sum benefit.**

(a)(1)(A) If an active member of the Arkansas Teacher Retirement System with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, then a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(B) If there are no designated persons surviving the member, the lump sum shall be paid in the following statutory succession:

- (i) Spouse;
- (ii) Children;
- (iii) Parents; and
- (iv) Estate.

(2) If the member had only noncontributory credited service, then the lump sum shall be up to six thousand six hundred and sixty-seven dollars (\$6,667).

(3) If upon his death, the member had a combination of credited service of both contributory and noncontributory, the lump sum will be prorated according to the relationship between his noncontributory credited service and his total credited service.

(b)(1)(A) Upon the death of a retirant whose annuity is paid by the system, a lump sum of up to ten thousand dollars (\$10,000) shall be paid to such persons as he or she shall have nominated by written designation duly executed and filed with the board.

(B) If there are no designated persons surviving the retirant, the lump sum shall be paid in the following statutory succession:

- (i) Spouse;
- (ii) Children;
- (iii) Parents; and



(iv) Estate.

(2) If the retirant had only noncontributory credited service, then the lump sum shall be up to six thousand six hundred and sixty-seven dollars (\$6,667).

(3) If upon his death, the retirant had a combination of credited service of both contributory and noncontributory, the lump sum will be prorated according to the relationship between his noncontributory credited service and his total credited service.

(c) In addition to the benefits provided in subsections (a) and (b) of this section, each surviving dependent child shall be paid a lump sum of ten thousand dollars (\$10,000) upon the death of either an active member or retirant.

(d) The exact amount of the lump-sum payments shall be set annually by rules and regulations of the board as it determines is actuarially appropriate for the system. The board is authorized by this subsection to set the level of these benefits to the current members and retirants where the ratio between the contributory and noncontributory benefits are maintained at a three-to-two (3:2) ratio and to a level to match the benefits that the board finds are appropriate for the actuarial soundness of the system.

(e) No benefit enhancement provided for by this section shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by this act shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

(f) The board shall implement this benefit provision for lump-sum payments by either making the lump-sum payments directly from the system or by purchasing a group life insurance policy for the benefit of system members, whichever is the most cost effective.

**History.** Acts 1997, No. 1022, § 1; 1999, No. 312, § 1.

**Meaning of "this act".** Acts 1997, No. 1022, codified as this section.

**Amendments.** The 1999 amendment, in (a)(1) and (b)(1), substituted "ten thousand dollars (\$10,000)" for "seven thousand five hundred dollars (\$7,500)" and inserted "to such persons as he or she shall have nominated by written designation duly executed and filed with the Board of Trustees of the Arkansas Teacher

Retirement System. If there are no designated persons surviving the member, the lump sum shall be paid"; in (a)(2) and (b)(2), substituted "six thousand six hundred and sixty-seven dollars (\$6,667)" for "five thousand dollars (\$5,000)"; in (a)(3) and (b)(3), substituted "combination of credited service" for "mixture of credited service"; inserted present (c); redesignated former (c)-(e) as present (d)-(f); and made stylistic changes.

## 24-7-721. Increase in monthly benefits — Acts 1997, No. 442.

On July 1, 1996, and thereafter, the monthly benefit payable to the retirants and the beneficiaries of retirants of the Arkansas Teacher

Retirement System who retired before July 1, 1991, shall be increased by an amount equal to one percent (1%) of the benefit payable on June 30, 1996, for each year or portion of a year of retirement prior to July 1, 1991, up to a maximum benefit increase of fifteen percent (15%). Furthermore, the monthly benefit payable to retirants and beneficiaries of retirants who retired between June 30, 1996, and July 1, 1991, shall be increased an amount equal to one percent (1%) of the benefit payable on June 30, 1996. This benefit increase shall be a one-time adjustment and shall also be used to figure any additional benefit increases in the future.

**History.** Acts 1997, No. 442, § 1.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

### **24-7-722. Limitation on benefit enhancement — Acts 1997, Nos. 442, 992, and 1074.**

(a) No benefit enhancement provided for by §§ 24-7-702(b)(3) and (4), 24-7-721, and Acts 1997, No. 992 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by §§ 24-7-702(b)(3) and (4), 24-7-721, and Acts 1997, No. 992 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 442, § 2; 1997, No. 992, § 5; 1997, No. 1074, § 2.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701,

24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

### **24-7-723. Increase in monthly benefits — Acts 1997, No. 992.**

On and after April 1, 1997, the monthly benefit payable to the retirants and the beneficiaries of retirants of the Arkansas Teacher Retirement System who retired July 1, 1990, or later shall be increased by an amount equal to seven-tenths percent (0.7%) of the benefit payable on March 31, 1997. This increase shall be a one-time adjustment and shall also be used to calculate any additional benefit increases in the future. The benefit payable on July 1, 1997, shall become the base amount.

**History.** Acts 1997, No. 992, § 4; 1999, No. 31, § 1.

**Amendments.** The 1999 amendment substituted "April 1, 1997" for "July 1,

1997" and substituted "March 31, 1997" for "June 30, 1997"; and made stylistic changes.

**24-7-724, 24-7-725. [Repealed.]**

**A.C.R.C. Notes.** These sections, concerning limitation on benefit enhancement of Acts 1997, Nos. 992 and 1074, were repealed pursuant to § 29-20-138.

The sections were derived from the following sources:

24-7-724. Acts 1997, No. 992, § 5.

24-7-725. Acts 1997, No. 1074, § 2.

**24-7-726. Computation of benefits based on contract salary.**

If a person employed in a public school district of this state has received an actual salary reduced below the contract salary due to military service or other government service, the Arkansas Teacher Retirement System shall compute retirement benefits based upon the contract salary and not the reduced salary resulting from the military service or other government service, provided that the system receives the employee and employer contributions in effect at the time service is rendered, plus interest, on the difference between the actual salary and the contract salary.

**History.** Acts 1999, No. 906, § 1.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**24-7-727. Compounded cost of living adjustments.**

(a) After July 1, 1999, beginning with the July 1 which is at least twelve (12) months after the effective date of a monthly benefit, the amount of the benefit shall be redetermined effective each July 1, and the redetermined amount shall be payable for the ensuing year.

(b) The redetermined amount shall be the amount of the benefit payable as of the immediately preceding June 30 increased by three percent (3%).

(c) The benefit provisions provided in subsections (a) and (b) of this section shall be implemented according to rules and regulations of the Board of Trustees of the Arkansas Teacher Retirement System as is actuarially appropriate for the Arkansas Teacher Retirement System. Prior to increasing a benefit as provided in this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs.

**History.** Acts 1999, No. 404, § 1.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.



### 24-7-728. Computation of benefits based on life annuity.

The Board of Trustees of the Arkansas Teacher Retirement System is authorized by this section to raise the level of benefit to the current retirants and other beneficiaries of the Arkansas Teacher Retirement System to a comparable level increase to match the increase in benefits that would accrue to active members as a result of any increase in the calculation of a life annuity as provided in § 24-7-705(a)(1)(A) and (a)(1)(B) in accordance with any rules and regulations the board might promulgate. The amount of any increase for retirants and other beneficiaries shall also be determined in accordance with the rules and regulations of the board as is actuarially appropriate for the system. Prior to increasing a benefit as provided in this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the committee.

**History.** Acts 1999, No. 396, § 2.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

### 24-7-729. Adjustment of § 24-7-713 base amount.

The base amount in § 24-7-713 will be adjusted at the same time a benefit increase is granted to active members under § 24-7-728.

**History.** Acts 1999, No. 396, § 3.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## SUBCHAPTER 8 — ALTERNATE PLAN FOR STATE COLLEGES

#### SECTION.

24-7-801. Definitions.

24-7-802. [Repealed.]

24-7-803. Provisions of subchapter controlling.

24-7-804. Establishment and administration of plan.

24-7-805. Methods of providing benefits

#### SECTION.

— Agent for service of process.

24-7-806. Procedure for designation of companies to provide benefit contracts.

24-7-807. Participation in plan.

24-7-808. Contributions.

**Cross References.** Certain employees of educational institutions to be members of Arkansas Public Employees' Retirement System, § 24-7-1002.

Henderson State University Retirement Plan, § 6-66-105n.

**Effective Dates.** Acts 1967, No. 436,

§ 11: Mar. 16, 1967. Emergency clause provided: "It is found that Arkansas colleges now need to recruit many teachers and staff members to accommodate the ever-growing number of students who enroll; that competition for the services of high class educators and staff members

has developed; that in making a choice of employment, teachers and staff members place much stress on the adequacy and transportability of pension and retirement benefits; that in order to retain teachers and staff members who are now employed, and in order to employ new teachers and staff members of high quality, it is necessary that Arkansas offer, with as little delay as possible, a retirement plan which will prove acceptable. Now, therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 622, § 3: May 13, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 232 of 1969 which revised certain provisions of Act 436 of 1967, relating to participation by college and university staff members in an alternate retirement plan was designed to take effect on July 1, 1969, but did not contain an emergency clause and therefore due to the extension of the regular session will not take effect until well after July 1, and that it is essential to the proper and efficient administration of the alternate retirement plan provided in Act 436 of 1967 that the provisions contained in Act 232 of 1969 become effective on or before July 1, 1969. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 227, § 2: Mar. 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the intent of the Teacher Retirement Law and the Alternate Retirement Plan for teachers and administrative officers of colleges and universities supported by the State of Arkansas was and still is that a person shall qualify for an annuity from the Teacher Retirement System only when he retires from covered employment. It is further found and determined that the present wording of subparagraph (1) of paragraph (d) of Section 4 of Act 436 of 1967 as amended is causing confusion about the intent of the General Assembly, and that there is uncertainty in administration of this provision of law and

clarification of this provision is needed. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 511, § 10: Mar. 13, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the Arkansas Department of Higher Education needs to recruit personnel from higher education institutions and employees of other state agencies to accommodate the demands made upon the department; that in making a choice of employment, staff members place much stress on the adequacy and transportability of pension and retirement benefits; that in order to retain staff members who are now employed, and to employ new staff members of high quality, it is necessary that Arkansas offer a retirement plan that is acceptable and does not penalize employees for transfers from institutions of higher education or other public employment. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 299, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that certain college and university employees under the Teacher Retirement System need additional time to determine whether or not to elect to be covered by an alternate retirement plan, that current law does not extend an adequate period for those persons to make an educated selection of the alternatives, and that the change in the law is necessary to the continued efficient and effective operation of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 332, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that certain staff members of the Ar-

kansas Technical and Community College system are unable to achieve an equitable retirement under the current provisions of Arkansas law; that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to be effective at the beginning of the state fiscal biennium to continue the effective and efficient operation of the Arkansas Technical and Community College system in Arkansas. Therefore, in order to promote effectiveness in state government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 944, § 6: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty- First General Assembly of the State of Arkansas that certain staff members of the technical colleges, post-secondary vocational-technical schools and the Division of Vocational-Technical Education are unable to achieve an equitable retirement under the current provisions of Arkansas law for an alternate retirement plan; that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to become effective at the beginning of the State's fiscal year to promote the proper opera-

tion of the vocational-technical colleges and schools in Arkansas. Therefore, in order to promote the effective financial administration of state government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 1053, § 28: July 1, 1998.

Acts 1999, No. 908, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain staff members of the technical colleges, post-secondary vocational-technical schools and the Department of Workforce Education are unable to achieve an equitable retirement under the current provisions of Arkansas law for an alternate retirement plan; that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to become effective at the beginning of the state's fiscal year to promote the proper operation of the vocational-technical colleges and schools in Arkansas. Therefore, in order to promote the effective financial administration of state government, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

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## 24-7-801. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Alternate retirement plan" means a retirement plan based on the purchase of contracts providing retirement and death benefits for the teachers and administrative officers of state-supported colleges, Arkansas State University, and the department employees;

(2) "Board" means the governing body of a college;

(3) "College" means any one (1) of the state-supported colleges and junior colleges and Arkansas State University;

(4) "Department employees" means the director and the professional education employees of the Department of Higher Education;

(5) "Retirement system" means the Arkansas Teacher Retirement System;

(6) "Staff members" means both teachers and administrative officers of a college who are eligible for membership in the retirement system;



- (7) "State" means the State of Arkansas; and  
(8) "State board" means the State Board of Higher Education.

**History.** Acts 1967, No. 436, § 1;  
A.S.A. 1947, § 80-1457; Acts 1991, No.  
511, § 1.

#### **24-7-802. [Repealed.]**

**Publisher's Notes.** This section, concerning construction of the subchapter, was repealed by Acts 1995, No. 332, § 5. The section was derived from Acts 1967, No. 436, § 8; A.S.A. 1947, § 80-1464.

#### **24-7-803. Provisions of subchapter controlling.**

Insofar as the provisions of this subchapter are, or may be, inconsistent with the provisions of any other general or special act, the provisions of this subchapter shall be controlling.

**History.** Acts 1967, No. 436, § 9;  
A.S.A. 1947, § 80-1464n.

#### **24-7-804. Establishment and administration of plan.**

(a) The board of any college and the State Board of Higher Education may establish and maintain an alternate retirement plan which shall authorize the purchase of contracts providing retirement and death benefits for staff members and employees of the Department of Higher Education.

(b) Under the plan, staff members and department employees shall contribute, to the extent authorized or required, toward the purchase of the contracts, which shall be issued to and become the property of the participants.

(c) The board of any college which elects to establish and maintain an alternate retirement plan and the Director of the Department of Higher Education, if it elects to establish and maintain a plan, shall have authority to administer the plan and to perform or authorize the performance of all such functions as may be reasonably appropriate in its administration.

**History.** Acts 1967, No. 436, §§ 2, 7;  
A.S.A. 1947, §§ 80-1458, 80-1463; Acts  
1991, No. 511, § 2.

#### **24-7-805. Methods of providing benefits — Agent for service of process.**

(a) An alternate retirement plan may be a separate system or fund or may be one which participates in a larger system or fund with respect to some or all of the benefits provided thereunder.

(b) The benefits to be provided for or on behalf of staff members and employees of the Department of Higher Education under an alternate

retirement plan may be provided through insurance policies and annuity contracts, both fixed and variable in nature, or a combination thereof, as specified in the plan, which insurance policies and annuity contracts may be obtained from any insurance company authorized to do business in this state or from any nonprofit company organized and operated exclusively for the purpose of aiding and strengthening educational or scientific institutions by issuing insurance or annuity contracts only to or for the benefit of such institutions or individuals engaged in their services.

(c) In any action brought by a staff member or department employee on a policy or contract, any official of the college or the Director of the Department of Higher Education shall be deemed to be the agent of the nonprofit company only for the purpose of service of process on the contract or policy, and for no other purpose.

**History.** Acts 1967, No. 436, § 3; A.S.A. 1947, § 80-1459; Acts 1991, No. 511, § 3.

#### **24-7-806. Procedure for designation of companies to provide benefit contracts.**

(a) The board of each college or university, or the State Board of Higher Education acting for the Department of Higher Education, shall designate the companies from which contracts are to be purchased under the alternate retirement plan and shall approve the form and contents of the contracts.

(b) In making the designation and giving the approval, the board or state board shall give due consideration to:

(1) The nature and extent of the rights and benefits to be provided by the contracts for staff members and their beneficiaries;

(2) The relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this subchapter;

(3) The suitability of the rights and benefits to the needs of the staff members and the interests of the college in the recruitment and retention of staff members; and

(4) The ability of the designated company or companies to provide the suitable rights and benefits under the contracts.

**History.** Acts 1967, No. 436, § 6; A.S.A. 1947, § 80-1462; Acts 1991, No. 511, § 4; 1993, No. 443, § 1.

**Amendments.** The 1993 amendment added the (a) and (b) designations; in present (a), deleted "state" following "The"

at the beginning and inserted "of each college or university, or the state board acting for the department"; and inserted "board or" in the first sentence of present (b).

#### **24-7-807. Participation in plan.**

Participation in an alternate retirement plan established pursuant to this subchapter shall be as follows:

(1) Any staff member employed or appointed by a college or university on or after the establishment of its alternate retirement plan shall participate in the plan or in the Arkansas Teacher Retirement System;

(2) Any staff member employed or appointed by a college or university prior to July 1, 1969, who is a member of the retirement system shall continue in such membership or shall participate in the alternate retirement plan, as provided in this subchapter;

(3)(A) Any staff member employed or appointed by a college or university with fewer than ten (10) years of member service in the retirement system may elect to terminate his membership in the retirement system and participate in the alternate retirement plan established by the employing college or university.

(B) The election shall be in writing and filed with the retirement system and the disbursing officer of the employing college or university within one (1) year after he becomes eligible to participate in the alternate retirement plan, except that, on or after July 1, 1993, until December 31, 1993, any staff member employed or appointed by a college or university who has fewer than ten (10) years of member service in the retirement system and who has not already so elected may elect to terminate his membership in the retirement system and participate in the alternate retirement plan established by the employing college or university. Such election shall be in writing and filed with the retirement system and the disbursing officer of the employing college or university.

(C) All accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of § 24-7-406 shall be returned to the staff member, and all of his credited service under the retirement system shall be cancelled;

(4)(A)(i) Any staff member employed or appointed by a college or university with five (5) or more years of actual service who elects to participate only in the alternate retirement plan and who has left his contributions in the retirement system shall be eligible to receive an annuity on or after attaining sixty (60) years of age and on his retirement from covered employment.

(ii) The amount of the annuity shall be determined by the benefit formula of the retirement system at the time of his retirement.

(B) The election authorized under subdivision (4)(A) of this section shall be made in writing and filed with the retirement system and with the disbursing officer of the employing college or university on or before July 1 of the year in which the person makes the election to participate in the alternate retirement plan.

(C) The person's annuity shall begin on the first day of the month following the date his application for retirement is filed with the board of trustees on or after his attainment of age sixty (60);

(5)(A)(i) Any Department of Higher Education employee who transferred from another state department covered by a state-supported retirement system may elect to participate in an alternate retirement plan.



(ii) Such employee shall file written notice of his election with the Director of the Department of Higher Education.

(B)(i) Any department employee with five (5) or more years of actual service who elects to participate only in the alternate retirement plan and who has left his contributions in the retirement system shall be eligible to receive an annuity on or after attaining the normal retirement age and on his retirement from covered employment.

(ii) The amount of the annuity shall be determined by the benefit formula of the retirement system at the time of his retirement.

(C)(i) The election authorized under this subdivision (5) shall be made in writing and filed with the retirement system and with the director on or before July 1 of the year in which the person makes the election to participate in the alternate retirement plan.

(ii) The person's annuity shall begin on the first day of the month following the date his application for retirement is filed with the board of trustees on or after his attainment of normal retirement age and on his retirement from covered employment.

(D)(i) Effective July 1, 1999, staff members who elect to participate in an alternate retirement plan may elect to become members of the retirement system.

(ii) Service credit forfeited while a member of an alternate retirement plan cannot be established in the retirement system.

(iii) The election to withdraw from the alternate retirement plan and become a member of the retirement system shall be made by December 31, 1999, and notice of the election shall be made in writing and filed with the retirement system and the disbursing officer of the employing college or university by December 31, 1999.

**History.** Acts 1967, No. 436, § 4; 1969, No. 232, § 1; 1969, No. 622, § 1; 1975, No. 235, § 1; 1979, No. 227, § 1; A.S.A. 1947, § 80-1460; Acts 1991, No. 511, § 5; 1993, No. 299, § 1; 1995, No. 332, § 1; 1997, No. 944, § 1; 1997, No. 1053, § 10; 1999, No. 908, § 1.

**Amendments.** The 1993 amendment substituted "fewer" for "less" in (3)(A); and added the language beginning "except that, on or after July 1, 1993" at the end of (3)(B).

The 1995 amendment deleted the comma following "so elected" in (3)(B); in

(5)(C), substituted "this subdivision (5)" for "this subsection" and deleted "of the State Department of Higher Education" following "director"; and added (5)(D).

The 1997 amendment by No. 944 substituted "1997" for "1995" in (5)(D)(i) and twice in (5)(D)(iii).

The 1997 amendment by No. 1053 substituted "five (5) or more years of actual service" for "ten (10) or more year of credited service" in (4)(A)(i) and (5)(B)(i).

The 1999 amendment substituted "1999" for "1997" in (5)(D)(i) and twice in (5)(D)(iii); and made stylistic changes.

## 24-7-808. Contributions.

(a)(1) Any college or university which elects to establish and maintain an alternate retirement plan, and the State Board of Higher Education if it so elects, shall contribute to that plan on behalf of each staff member who elects to participate in the alternate retirement plan, or employee of the Department of Higher Education, six percent (6%) of

his total regular compensation during the continuance of his employment.

(2) Each staff member who elects to participate in the alternate retirement plan, or department employee, at the discretion of the college or university, shall also contribute thereto six percent (6%) of his total regular compensation.

(b)(1) The college or university may, at its discretion, contribute up to an additional four percent (4%) of the staff member's total regular compensation.

(2) Each staff member shall match that contribution by contributing a like percent of his total regular compensation.

(c) Payment of contributions authorized by the provisions of this section shall be made by the disbursing officer of the college or university and by the state official charged with the duty of paying salaries to department employees to the designated companies in accordance with the provisions of this section.

**History.** Acts 1967, No. 436, § 5; 1969, 726, § 1; A.S.A. 1947, § 80-1461; Acts No. 232, § 2; 1969, No. 622, § 2; 1979, No. 1991, No. 511, § 6.

SUBCHAPTER 9 — ALTERNATE PLAN FOR VOCATIONAL-TECHNICAL SCHOOLS

- SECTION.  
24-7-901. Definitions.  
24-7-902. [Repealed.]  
24-7-903. Provisions of subchapter controlling.  
24-7-904. Establishment and administration of plan.  
24-7-905. Methods of providing benefits — Agent for service of process.

- SECTION.  
24-7-906. Approval of companies and contracts.  
24-7-907. Participation in plan.  
24-7-908. Contributions.  
24-7-909. Extension of group insurance coverage by dependents of deceased eligible employee.

**Effective Dates.** Acts 1983, No. 480, § 11: Mar. 16, 1983. Emergency clause provided: "It is found that Arkansas Post Secondary Vocational-Technical Schools and the Division now need to recruit many teachers and staff members to accommodate the ever-growing number of students who enroll; that competition with other institutions and businesses for the services of competent vocational educators and staff members has developed; that in making a choice of employment, staff members place much stress on the adequacy and transportability of pension and retirement benefits; that in order to improve the retention of staff members who are now employed, and in order to employ new teachers and staff members of high quality, it is necessary that Arkansas offer, with as little delay as possible, a

retirement plan which will prove acceptable. Now, therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."  
Acts 1985 (1st Ex. Sess.), No. 12, § 4: June 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present laws relating to State Group Health Insurance do not specifically authorize retired instructors and administrative staff of vocational-technical schools and retired members of the Vocational-Technical Division to participate in the State group health insurance plan; that this oversight should be corrected immediately in order to avoid hardship and in equity to such

personnel; that this Act is designed to correct this undesirable situation and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985 (1st Ex. Sess.), No. 35, § 4: June 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present laws relating to State Group Health Insurance does not specifically authorize retired instructors and administrative staff of vocational-technical schools and retired members of the Vocational-Technical Division to participate in the State group health insurance plan; that this oversight should be corrected immediately in order to avoid hardship and in equity to such personnel; that this Act is designed to correct this undesirable situation and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 979, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that certain staff members of the post-secondary vocational-technical schools and the Division of Vocational-Technical Education are unable to achieve an equitable retirement under the current provisions of law, that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation, and that those laws need to be amended and this act needs to be effective at the beginning of the state fiscal biennium to continue the effective and efficient operation of the vocational-technical schools in Arkansas. Therefore, in order to promote effectiveness in state government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 332, § 6: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkan-

sas that certain staff members of the Arkansas Technical and Community College system are unable to achieve an equitable retirement under the current provisions of Arkansas law; that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to be effective at the beginning of the state fiscal biennium to continue the effective and efficient operation of the Arkansas Technical and Community College system in Arkansas. Therefore, in order to promote effectiveness in state government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 944, § 6: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that certain staff members of the technical colleges, post-secondary vocational-technical schools and the Division of Vocational-Technical Education are unable to achieve an equitable retirement under the current provisions of Arkansas law for an alternate retirement plan; that the retirement laws regarding alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to become effective at the beginning of the State's fiscal year to promote the proper operation of the vocational-technical colleges and schools in Arkansas. Therefore, in order to promote the effective financial administration of state government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1997."

Acts 1999, No. 908, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain staff members of the technical colleges, post-secondary vocational-technical schools and the Department of Workforce Education are unable to achieve an equitable retirement under the current provisions of Arkansas law for an alternate retirement plan; that the retirement laws regarding



alternate retirement plans in Arkansas need to be changed to solve this inequitable situation; and that those laws need to be amended and this act needs to become effective at the beginning of the state's fiscal year to promote the proper operation of the vocational-technical colleges and schools in Arkansas. Therefore, in

order to promote the effective financial administration of state government, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

## 24-7-901. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Alternate retirement plan" means a retirement plan based on the purchase of contracts providing retirement and death benefits for the instructors and administrative staff of the technical institutes or postsecondary vocational-technical schools of the State of Arkansas and the staff of the Department of Workforce Education and which has been approved by the board;

(2) "Board" means the State Board of Workforce Education and Career Opportunities;

(3) "Department" means the Department of Workforce Education;

(4) "Director" means the Director of the Department of Workforce Education;

(5) "Retirement system" means the Arkansas Teacher Retirement System;

(6) "School" means any technical institute or postsecondary vocational-technical school established pursuant to § 6-51-202 for the vocational training of students;

(7) "Staff members" means both instructors and administrative staff of a technical institute or postsecondary vocational-technical school and the staff of the Department of Workforce Education who are eligible for membership in the retirement system; and

(8) "State" means the State of Arkansas.

**History.** Acts 1983, No. 480, § 1; A.S.A. 1947, § 80-1466; Acts 1999, No. 1323, § 49.

**Amendments.** The 1999 amendment rewrote this section.

## 24-7-902. [Repealed.]

**Publisher's Notes.** This section, concerning the construction of this subchapter, was repealed by Acts 1993, No. 979,

§ 4. The section was derived from Acts 1983, No. 480, § 8; A.S.A. 1947, § 80-1473.

## 24-7-903. Provisions of subchapter controlling.

Insofar as the provisions of this subchapter are, or may be, inconsistent with the provisions of any other general or special act, the provisions of this subchapter shall be controlling.

**History.** Acts 1983, No. 480, § 9;  
A.S.A. 1947, § 80-1474.

#### **24-7-904. Establishment and administration of plan.**

(a) The State Board of Workforce Education and Career Opportunities may establish and maintain an alternate retirement plan which shall authorize the purchase of contracts providing retirement and death benefits for staff members.

(b) Under the plan, staff members shall contribute, to the extent authorized or required, toward the purchase of the contract, which shall be issued to and become the property of the participants.

(c) The alternate retirement plan shall be administered by the board pursuant to a written alternate retirement plan document, which shall be formally adopted by the board prior to the establishment of the alternate retirement plan.

(d) The board shall have the authority to administer all alternate retirement plans established pursuant to this subchapter and to perform or authorize the performance of all such functions as may be reasonably appropriate in their administration.

**History.** Acts 1983, No. 480, §§ 2, 7;  
A.S.A. 1947, §§ 80-1467, 80-1472.

#### **24-7-905. Methods of providing benefits — Agent for service of process.**

(a) An alternate retirement plan may be a separate system or fund or may be one which participates in a larger system or fund with respect to some or all of the benefits provided thereunder.

(b) The benefits to be provided for or on behalf of staff members under an alternate retirement plan may be provided through insurance policies or annuity contracts, both fixed and variable in nature, or a combination thereof, as specified in the plan. Those insurance policies and annuity contracts may be obtained from any insurance company authorized to do business in this state or from any nonprofit companies organized and operated exclusively for the purpose of aiding and strengthening educational or scientific institutions by issuing insurance or annuity contracts only to or for the benefit of such institutions or individuals engaged in their services.

(c) In any action brought by a staff member on a policy or contract, any school, school official, or any member of the State Board of Workforce Education and Career Opportunities shall be deemed to be the agent of the nonprofit company or insurance company only for the purpose of service of process on the contract or policy, and for no other purpose.

**History.** Acts 1983, No. 480, § 3;  
A.S.A. 1947, § 80-1468.

**24-7-906. Approval of companies and contracts.**

(a) The State Board of Workforce Education and Career Opportunities shall approve the companies from which contracts are to be purchased under the alternate retirement plan and shall approve the form and contents of the contracts.

(b) In giving the approval, the board shall give due consideration to:

(1) The nature and extent of the rights and benefits to be provided by the contracts for staff members and their beneficiaries;

(2) The relation of those rights and benefits to the amount of contributions to be made pursuant to the provisions of this subchapter;

(3) The suitability of the rights and benefits to the needs of the staff members and the interests of the vocational education school and the division in the recruitment and retention of staff members; and

(4) The ability of the approved companies to provide the suitable rights and benefits under the contracts.

**History.** Acts 1983, No. 480, § 6;  
A.S.A. 1947, § 80-1471.

**24-7-907. Participation in plan.**

Participation in an alternate retirement plan established pursuant to this subchapter shall be as follows:

(1) All staff members shall participate in either the Arkansas Teacher Retirement System or an alternate retirement plan or may participate in both, but participation in both shall be limited to the circumstances described in subdivision (2) of this section;

(2) Any staff member who has become fully vested in the retirement system may:

(A) Continue as an active member of the retirement system;

(B) Discontinue contributing to the retirement system, thus becoming an inactive member of the retirement system, and participate instead in an alternate retirement plan. Under those circumstances, the staff member would be both an inactive member of the retirement system and an active member of the alternate retirement plan; or

(C) Participate in an alternate retirement plan and receive all accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of § 24-7-406 and have the member's credited service under the retirement system cancelled;

(3) Any staff member who has participated in the retirement system for a period which is insufficient to allow for full vesting of that staff member's retirement system benefits may:

(A) Continue as an active member of the retirement system;

(B) Discontinue membership in the retirement system and transfer from the retirement system into his account with the alternate retirement plan, i.e., roll over all contributions which the staff member has previously made to the retirement system; or



(C) Participate in the alternate retirement plan and receive all accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of § 24-7-406 and have the member's credited service under the retirement system cancelled;

(4)(A) No staff member may participate in an alternate retirement plan without giving prior written notice of his election to participate in the alternate retirement plan.

(B) The notice of election shall be in writing on a form established by the division and filed with both the Director of the Department of Workforce Education and the retirement system.

(C) New staff members shall make the election within ninety (90) days after the date of their employment;

(5)(A) Effective July 1, 1999, staff members who elect to participate in an alternate retirement plan may elect to become members of the retirement system.

(B) Service credit forfeited while a member of an alternate retirement plan cannot be established in the retirement system.

(C) The election to withdraw from the alternate retirement plan and become a member of the retirement system shall be made by December 31, 1999, and notice of the election shall be made in writing to the director and the retirement system by December 31, 1999.

**History.** Acts 1983, No. 480, § 4; 1985, No. 250, § 1; A.S.A. 1947, § 80-1469; Acts 1993, No. 979, § 1; 1995, No. 332, § 2; 1997, No. 944, § 2; 1999, No. 908, § 2.

**Publisher's Notes.** Acts 1985, No. 250, § 1, provided, in part, that any staff member not then participating in the alternate retirement plan could make the election by September 1, 1985, further provided that any staff member who elected to become an inactive member of the retirement system and participate in the alternate retirement plan could elect to receive all accumulated contributions to the credit of the staff member in the members' deposit account maintained pursuant to § 24-7-406 and to have the member's

credited service under the system canceled, and also provided that notice of such election should be made in writing to the director and the retirement system by September 1, 1985.

**Amendments.** The 1993 amendment added (5).

The 1995 amendment added the subdivision designations in (4); and substituted "1995" for "1993" throughout (5).

The 1997 amendment substituted "July 1, 1997" for "July 1, 1995" in (5)(A); and substituted "December 31, 1997" for "December 31, 1995" twice in (5)(C).

The 1999 amendment substituted "1999" for "1997" in (5)(A) and twice in (5)(C); and made stylistic changes.

## 24-7-908. Contributions.

(a)(1) The Department of Workforce Education shall contribute to the alternate retirement plan on behalf of each participating staff member an amount equal to the contribution made by the State of Arkansas for persons participating in the retirement system.

(2) Each staff member shall also contribute to the alternate retirement plan an amount equal to the maximum allowable member contribution under the retirement system or, at the option of the staff member, additional amounts allowable under the alternate retirement plan.

(b) Payment of contributions by the division which are authorized by the provisions of this section shall be made by the disbursing officer of the division.

(c)(1) All staff members who elect to participate in the alternate retirement plan shall so notify the State Board of Workforce Education and Career Opportunities in writing.

(2) The board shall establish a procedure for notifying the state official charged with paying the salaries of staff members, which official shall cause staff members' contributions to be withheld and forwarded to the company approved by the board and designated by the staff member.

**History.** Acts 1983, No. 480, § 5;  
A.S.A. 1947, § 80-1470.

**24-7-909. Extension of group insurance coverage by dependents of deceased eligible employee.**

Upon the death of an insured eligible employee of an institution of higher education or of an insured eligible employee who is a member of the alternate retirement plan for employees of the State Board of Workforce Education and Career Opportunities or of a person retired and receiving benefits under the alternate plan, the dependents of the deceased person shall have the same option to extend the group insurance coverage of the dependents under the state group insurance plan as is afforded dependents of other deceased insured employees and retirants.

**History.** Acts 1985 (1st Ex. Sess.), No. 12, § 2; 1985 (1st Ex. Sess.), No. 35, § 2;  
A.S.A. 1947, § 12-3113.1.

**SUBCHAPTER 10 — EMPLOYEES OF PARTICULAR INSTITUTIONS**

SECTION.

- 24-7-1001. Membership in Arkansas Public Employees' Retirement System for certain employees of state colleges.
- 24-7-1002. Membership in Arkansas Public Employees' Retirement System for certain employees of colleges, universities, and community colleges.
- 24-7-1003. Membership in Arkansas Public Employees' Retirement System for certain University of Arkansas employees.
- 24-7-1004. Continuation of participation in respective systems by employees of former Ar-

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- kansas Agricultural and Mechanical College and University of Arkansas at Monticello.
- 24-7-1005. Option of employees of former Arkansas Agricultural and Mechanical College and former Arkansas Agricultural, Mechanical, and Normal College to participate in University of Arkansas retirement plan.
- 24-7-1006. Retirement system for employees of University of Arkansas agricultural experiment stations.
- 24-7-1007. Pine Bluff — Employee retirement systems.

## SECTION.

24-7-1008. Continued membership in retirement plan — Election.

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**Cross References.** Membership in system, § 24-4-301 et seq.

**Effective Dates.** Acts 1945, No. 83, § 3: Feb. 21, 1945.

Acts 1971, No. 9, § 8: July 1, 1971.

Acts 1975 (Extended Sess., 1976), No. 1075, § 5: Jan. 30, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that some of the employees of the State colleges which were merged into the University of Arkansas were unaware, prior to the mergers, of their opportunities concerning various retirement plans or systems and that the merger legislation continued them in the retirement plans of which they were then members, and such persons should be given an opportunity to elect a retirement plan prior to the next employment period, so that the immediate passage of this Act is necessary to establish procedures therefor. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 545, § 3: Mar. 19, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that statutes governing membership in the Teacher Retirement System and the Public Employees Retirement Systems appear to be in conflict. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public

peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1053, § 28: July 1, 1998.

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## **24-7-1001. Membership in Arkansas Public Employees' Retirement System for certain employees of state colleges.**

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to include within the membership of the system, as created by § 24-4-103, all employees of the University of Arkansas at Monticello, Arkansas State University — Jonesboro, Arkansas Tech University, Arkansas State University — Beebe, Southern Arkansas University, University of Central Arkansas, Henderson State University, and the University of Arkansas — Pine Bluff who are



not otherwise covered by some other existing state-supported retirement system other than social security.

(b)(1)(A) The effective date of membership of the employees in the Arkansas Public Employees' Retirement System shall be January 1, 1963.

(B) All the employees enrolled in the system shall be subject to the rights, privileges, and limitations of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202 — 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, and 24-4-606.

(2) Becoming members of the system shall be a condition of continuing in or obtaining employment, as the case may be.

(3) Any employee included within the membership of the system shall be given credit for service rendered prior to July 1, 1957, as an employee of a public employer, as defined in § 24-4-101, or of any state college named in subsection (a) of this section, if so employed by one of the institutions of higher learning on July 1, 1957.

(c)(1) Any employee receiving retirement coverage under the provisions of this section who was an employee of one (1) of the institutions of higher learning on January 1, 1963, may apply for and receive current service credit for service rendered as an employee of that institution from July 1, 1957, to July 1, 1963, but only if the employee pays to the retirement system all necessary contributions, at the rate of four percent (4%) for the employee and four percent (4%) for the employer, that would have been paid had the employee been a member of the retirement system during that time.

(2) The contributions shall have been paid in full on or before July 1, 1966.

(d) Excluded from the provisions of this section are employees classified as student labor, graduate assistants, and seasonal agricultural workers.

**History.** Acts 1963, No. 149, §§ 1-3, 5; 1965, No. 397, §§ 1, 2; A.S.A. 1947, §§ 12-2525 — 12-2527, 12-2529.

## **24-7-1002. Membership in Arkansas Public Employees' Retirement System for certain employees of colleges, universities, and community colleges.**

(a) All persons, except those who are eligible for membership in the Arkansas Teacher Retirement System as provided for under the provisions of §§ 24-7-201 et seq., and except those who are eligible for membership in an alternate system as provided for under the provisions of §§ 24-7-801 and 24-7-803 — 24-7-808, employed by Arkansas State University, Arkansas State University — Beebe, the University of Central Arkansas, Henderson State University, Arkansas Tech University, Southern Arkansas University, Southern Arkansas University at El Dorado, SAU — Tech at Camden, or a state-supported community

college after March 19, 1983, shall be members of the Arkansas Public Employees' Retirement System unless, at the time of employment, they are already members of the Arkansas Teacher Retirement System due to previous employment with an employer covered by the Arkansas Teacher Retirement System.

(b)(1) All persons except those who are members of the Arkansas Public Employees' Retirement System or the Arkansas Teacher Retirement System, as provided for in subsection (a) of this section, and except those who are eligible for membership in an alternate system as provided for under the provisions of §§ 24-7-801 and 24-7-803 — 24-7-808, who are employees of the institutions named in subsection (a) of this section shall have the option of remaining members of the Arkansas Teacher Retirement System or terminating membership in that system and enrolling in the Arkansas Public Employees' Retirement System.

(2) The election to change systems must be made on or before July 30, 1986.

**History.** Acts 1983, No. 545, §§ 1, 2; 1985, No. 511, § 1; A.S.A. 1947, §§ 12-2581, 12-2581.1; Acts 1993, No. 447, § 10.

**Amendments.** The 1993 amendment, in (a), inserted "Arkansas" preceding "Teacher" throughout, substituted "§§ 24-

7-101 et seq." for "§§ 24-7-801 — 24-7-808," substituted "SAU — Tech" for "Southern Arkansas University, Technical Branch," inserted "Arkansas" preceding "Public," and made minor punctuation changes.

### **24-7-1003. Membership in Arkansas Public Employees' Retirement System for certain University of Arkansas employees.**

(a) All employees of the University of Arkansas system who are not members of any state-supported retirement system or retirement system recognized by the university system on September 1, 1985, shall become members of the Arkansas Public Employees' Retirement System.

(b)(1) All persons employed by the University of Arkansas system after September 1, 1985, shall choose, at the time of employment, which state-supported retirement system or retirement system recognized by the university system they desire to be a member of.

(2) Any employee who fails to make the election at the time of employment shall become a member of the Arkansas Public Employees' Retirement System.

(c) All employees of the University of Arkansas system who were members of either the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System before July 4, 1983, shall continue to be members of the same system.

**History.** Acts 1983, No. 670, §§ 1, 2; A.S.A. 1947, §§ 12-2582, 12-2582.1.

**24-7-1004. Continuation of participation in respective systems by employees of former Arkansas Agricultural and Mechanical College and University of Arkansas at Monticello.**

(a)(1) The employees of the Arkansas Agricultural and Mechanical College who were, on July 1, 1971, participants making regular contributions to the Arkansas Teacher Retirement System shall continue to participate therein.

(2) The University of Arkansas is authorized to expend from its funds to match their contributions to that system as provided by law, and this shall be the retirement plan for those persons, excluding only social security.

(b) Those employees of the Arkansas Agricultural and Mechanical College who were, on July 1, 1971, participating in the alternate retirement plan authorized by §§ 24-7-801 and 24-7-803 — 24-7-808 shall participate thereafter to the same extent, and in like manner, in the retirement plan in operation for University of Arkansas employees, and this shall be the retirement plan for those persons, excluding only social security.

(c)(1) Those employees of the Arkansas Agricultural and Mechanical College who were, on July 1, 1971, participating in the Arkansas Public Employees' Retirement System and currently making regular contributions thereto shall continue to participate therein.

(2) The University of Arkansas is authorized to expend from its funds to match their contributions to that system as provided by law, and this shall be the retirement plan for those persons, excluding only social security.

(d) All persons first employed by the University of Arkansas at Monticello on or after July 1, 1971, and any employees of the Arkansas Agricultural and Mechanical College who were not participating in either the Arkansas Teacher Retirement System, the Arkansas Public Employees' Retirement System, or the alternate retirement plan on July 1, 1971, and who become employees of the University of Arkansas, shall be eligible to participate in the retirement plan in operation for University of Arkansas employees on the same basis that University of Arkansas employees on other campuses may participate, and this shall be the retirement plan for those persons, excluding only social security.

**History.** Acts 1971, No. 9, § 7; A.S.A. 1947, § 80-2889.

**24-7-1005. Option of employees of former Arkansas Agricultural and Mechanical College and former Arkansas Agricultural, Mechanical, and Normal College to participate in University of Arkansas retirement plan.**

(a)(1) Any staff member of the former Arkansas Agricultural and Mechanical College, which is now the University of Arkansas at Monticello, or of the former Arkansas Agricultural, Mechanical, and



Normal College, which is now the University of Arkansas at Pine Bluff, who elects to terminate his membership in the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System and to participate in the retirement plan in operation for University of Arkansas employees may do so on the same basis that University of Arkansas employees on its other campuses may participate.

(2) The election shall be in writing and filed with the chief fiscal officer of the University of Arkansas campus where the member is employed.

(3) The University of Arkansas shall forward to each of the former retirement plans described in this subsection the written applications of those employees on these campuses who elect to terminate their participation in the former retirement plan according to the provisions of this section.

(b)(1) All accumulated contributions to the credit of the staff member in the members' deposit account which is maintained pursuant to the provisions of Acts 1973, No. 427 or Acts 1957, No. 177 shall be returned to the staff member, and all of his credited service under the retirement system shall be cancelled.

(2)(A) Any staff member with five (5) or more years of actual service or upon reaching five (5) years of actual service who elects to participate in the plan in operation for the University of Arkansas and who leaves his contributions in the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System shall be eligible to receive an annuity upon reaching the age for normal age and service retirement benefits, as determined by the benefit formula of the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System, and on his retirement from covered employment.

(B) The amount of the annuity shall be determined by the benefit formula of the Arkansas Teacher Retirement System or the Arkansas Public Employees' Retirement System at the time of retirement.

**History.** Acts 1975 (Extended Sess., 1976), No. 1075, § 3; 1981, No. 288, § 1; 1981, No. 925, § 1; A.S.A. 1947, §§ 80-2889.2, 80-3222; Acts 1997, No. 1053, § 11.

**Publisher's Notes.** As to option of certain employees of former Arkansas Agricultural and Mechanical College to participate in the University of Arkansas retirement plan, see Acts 1975 (Extended Sess., 1976), No. 1075, § 2.

Acts 1973, No. 427, referred to in this section, is codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 —

24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

Acts 1957, No. 177, referred to in this section, is codified as §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, 24-4-606.

**Amendments.** The 1997 amendment substituted "five (5) or more years of actual service" for "ten (10) or more years of credited service" twice in (b)(2)(A).

**24-7-1006. Retirement system for employees of University of Arkansas agricultural experiment stations.**

(a) In order to provide for the retirement on annuity or otherwise of the employees of the cooperative work in agriculture and home economics and employees of the branch agricultural experiment stations of the University of Arkansas, who are on regular full-time appointment, the Board of Trustees of the University of Arkansas is authorized to use agricultural extension service funds and branch agricultural experiment station funds under its control as employer contributions to a retirement system to be established by the board.

(b) The contribution of the employer to an annuity or other retirement income plan for any employee shall not exceed five percent (5%) of the employee's salary and shall be matched by an equal contribution from the employee.

(c) The business manager of the University of Arkansas is designated as trustee and shall hold and disburse these funds according to the rules promulgated by the board.

**History.** Acts 1945, No. 83, §§ 1, 2;  
A.S.A. 1947, §§ 80-3007, 80-3008.

**24-7-1007. Pine Bluff — Employee retirement systems.**

All persons first employed by the University of Arkansas for the Pine Bluff campus at dates on and after July 1, 1972, and including any former employees of Arkansas Agricultural, Mechanical, and Normal College who were not participating in either the Arkansas Teacher Retirement System, the Arkansas Public Employees' Retirement System, or the alternate retirement plan on July 1, 1972, and who may become employees of the University of Arkansas shall be eligible to participate in the retirement plan in operation for the University of Arkansas employees on the same basis that University of Arkansas employees on its other campuses may participate, and this shall be the retirement plan for such persons, excluding only social security.

**History.** Acts 1971, No. 512, § 9; A.S.A. 1947, § 80-3201n.

**Publisher's Notes.** Acts 1971, No. 512, § 9, provided, in part, that employees of the Arkansas Agricultural, Mechanical, and Normal College who were, on July 1, 1972, participants under the Arkansas Teacher Retirement System, the alternate retirement plan authorized by § 24-7-801 et seq., or the Arkansas Public Employees' Retirement System would continue to par-

ticipate therein and that the respective plans would be the retirement plans for such persons excluding only social security. Section 9 further provided authorization for the University of Arkansas to match from its funds contributions by employees participating in the Arkansas Teacher Retirement System and the Arkansas Public Employees' Retirement System.

**24-7-1008. Continued membership in retirement plan — Election.**

(a)(1) Each instructor and administrative staff member of a state-supported postsecondary vocational-technical school employed on July 1, 1991, shall, within ninety (90) days following the transfer to the technical and community college system established under § 6-53-101 et seq., or upon transfer to the system with the approval of the board, elect either to continue membership in the retirement plan in which he or she was enrolled prior to that date or transfer to the Arkansas Teacher Retirement System or any alternate retirement plan currently established for the institution into which it is being merged or consolidated.

(2) Once such an election is made, the election is irrevocable during the tenure of employment with the system.

(b)(1) Each instructor and administrative staff member of a two-year campus of a four-year institution which is later converted to a technical college or community college under § 6-53-101 et seq. shall, within ninety (90) days following the appointment of the local board, elect either to continue membership in the retirement plan in which he or she was enrolled prior to the conversion or to transfer membership to the Arkansas Teacher Retirement System.

(2) Once such an election is made, the election is irrevocable during the tenure of employment with the system.

(c) Any other employees of an institution transferring to the system under this section or under the approval of the board shall remain members of the retirement system to which they were enrolled prior to the transfer.

**History.** Acts 1991, No. 1244, § 34.

**SUBCHAPTER 11 — NONTeaching Employees of Public Schools****SECTION.**

24-7-1101. Membership in Arkansas Public Employees' Retirement System.

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**Effective Dates.** Acts 1971, No. 438, § 3: Mar. 29, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of the members of the State Employees Retirement System have not obtained credited service in the retirement system for current service rendered either as a non-teaching employee of the public schools or as an employee of an institution of higher

learning and that only by the immediate passage of this Act can these employees obtain necessary credit and pay such necessary contributions therefor. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."



**24-7-1101. Membership in Arkansas Public Employees' Retirement System.**

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to include within the membership of the system, as created by § 24-4-103, all nonteaching employees of the public schools of this state who are not members of, or eligible for membership in, some other existing state-supported retirement system other than social security.

(b)(1) The board shall establish a Division of Nonteaching Public School Employees in the Arkansas Public Employees' Retirement System Fund which shall be maintained and operated in the same manner as the State Division, the County Division, and the Municipal Division of the fund.

(2) The several school districts of the state, as participating public employers, shall pay into the Arkansas Public Employees' Retirement System Fund such sums of money as are necessary to match the contributions of its nonteaching employees in the same form and manner and subject to all the provisions of §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, and 24-4-601 — 24-4-603, 24-4-605, and 24-4-606 to the same extent as other participating employers.

(c)(1) The effective date of membership of the employees in the Arkansas Public Employees' Retirement System shall be October 1, 1965.

(2) All employees enrolled in the system shall be subject to the rights, privileges, and limitations prescribed in §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, and 24-4-601 — 24-4-603, 24-4-605, and 24-4-606.

(3) Every employee shall become a member of the system as a condition of continuing or obtaining employment.

(d) Any employee included within the membership of the retirement system pursuant to this section shall be given credit for service rendered prior to October 1, 1957, as an employee of a public employer, as defined in § 24-4-101, or as a nonteaching employee of any public school of this state, if the employee was so employed on October 1, 1957, and on October 1, 1965.

(e)(1)(A) Any employee included within the membership of the retirement system who was a nonteaching employee of the public schools in this state on October 1, 1965, or who was an employee of one (1) of the institutions of higher learning and who became a member on July 1, 1963, may apply for and receive current service credit in multiples of one (1) year for service rendered from October 1, 1957, to October 1, 1965, in the case of a nonteaching employee of the public schools of this state, or, in the case of an employee of one (1) of the institutions of higher learning, for service rendered as an employee of the institution from July 1, 1957, to July 1, 1963.

(B) The employee may receive service credit only if the employee pays to the retirement system fund all necessary contributions, at the rate of four percent (4%) for the employee and four percent (4%) for the employer, that would have been paid had the employee been a member of the retirement system during that time, together with interest at three percent (3%) per annum compounded annually, from October 1, 1965, to the date of payment in the case of a nonteaching employee of the public schools, or, in the case of an employee of one of the institutions of higher learning, from July 1, 1957, to the date of payment.

(2) The contributions shall have been paid in full on or before January 1, 1972.

(f) In no case shall less than ten (10) days of service in any calendar month rendered by any member mentioned in this section be credited as a month of service, nor shall less than nine (9) months of service rendered in any one (1) fiscal school year be credited as a year of service.

**History.** Acts 1965, No. 63, §§ 1-5;  
1967, No. 63, § 1; 1971, No. 438, § 1;  
A.S.A. 1947, §§ 12-2542 — 12-2546.

## **SUBCHAPTER 12 — TAX-DEFERRED SAVINGS PROGRAMS FOR THE MEMBERS OF THE ARKANSAS TEACHER RETIREMENT SYSTEM**

### **SECTION.**

24-7-1201. Legislative intent.

24-7-1202. School Employees' Individual  
Retirement Account Fund.

24-7-1203. Participation in the fund.

### **SECTION.**

24-7-1204. Contributions to the fund.

24-7-1205. Investments.

24-7-1206. Administrative costs.

### **24-7-1201. Legislative intent.**

It is the intent of the General Assembly to make available to the members of the Arkansas Teacher Retirement System a school employees' individual retirement account plan and any other tax deferral plan permitted by federal law, and to enable the members to conveniently and economically receive the fullest benefits offered by federal tax law as it relates to tax-deferred savings plans for school employees covered by a mandatory public retirement plan.

**History.** Acts 1993, No. 369, § 1.

### **24-7-1202. School Employees' Individual Retirement Account Fund.**

(a)(1) There is hereby created a fund or funds which shall be known collectively as the School Employees' Individual Retirement Account Fund.

(2) The fund shall be administered by the Board of Trustees of the Arkansas Teacher Retirement System.

(b)(1) The board is hereby empowered and authorized to promulgate all necessary rules and regulations to implement the provisions of this subchapter and to define terms, words, and phrases to be used in implementing investment plans and accounts for the school employees, provided that the rules and regulations shall conform to the requirements of the Internal Revenue Code.

(2) The board may, in its discretion, adopt one (1) or more tax-deferred savings plans authorized by the federal government if it finds that doing so will offer substantial tax benefits to school employees covered under the provisions of this subchapter.

**History.** Acts 1993, No. 369, § 2. of 1954 referred to in this section is codified as 26 U.S.C. § 1 et seq.  
**U.S. Code.** The Internal Revenue Code

### **24-7-1203. Participation in the fund.**

(a)(1) The School Employees' Individual Retirement Account Fund program shall be available to all employees in the State of Arkansas who are members of the Arkansas Teacher Retirement System.

(2) Participation in this fund shall be on a strictly voluntary basis under the rules and regulations which shall be adopted by the Board of Trustees of the Arkansas Teacher Retirement System and in accordance with the provisions contained in the Internal Revenue Code as it relates to individual retirement accounts for public employees.

(b)(1) Any person who shall become ineligible for participation in the fund due to the termination of his employment with an eligible employer may leave his contributions on account with the fund.

(2) However, no further contributions may be accepted on his or her account unless the person shall become reemployed by an eligible employer.

**History.** Acts 1993, No. 369, § 3. of 1954 referred to in this section is codified as 26 U.S.C. § 1 et seq.  
**U.S. Code.** The Internal Revenue Code

### **24-7-1204. Contributions to the fund.**

Contributions to the School Employees' Individual Retirement Account Fund may be deducted from each participating employee's compensation and transmitted to the fund in accordance with any limitations imposed by federal tax law for any tax-deferred savings plan offered pursuant to the provisions of this subchapter and pursuant to the rules and regulations as shall be promulgated by the Board of Trustees of the Arkansas Teacher Retirement System.

**History.** Acts 1993, No. 369, § 5.

### **24-7-1205. Investments.**

All investments under the School Employees' Individual Retirement Account Fund program shall be made pursuant to the same authority



and same restrictions that govern the investment of funds of the Arkansas Teacher Retirement System.

**History.** Acts 1993, No. 369, § 4.

### 24-7-1206. Administrative costs.

(a) The administrative cost for the operation of the School Employees' Individual Retirement Account Fund shall be provided through investment earnings on contributions to the fund.

(b) No state funds shall be used to administer the provisions of this subchapter.

**History.** Acts 1993, No. 369, § 6.

## SUBCHAPTER 13 — TEACHER DEFERRED RETIREMENT OPTION PLAN

### SECTION.

- 24-7-1301. Election to participate — Conditions.
- 24-7-1302. Application — Review.
- 24-7-1303. Contributions to Arkansas Teacher Retirement System.
- 24-7-1304. Election of annuity options.
- 24-7-1305. Benefits.
- 24-7-1306. Amount of contributions.
- 24-7-1307. Account — Credit.
- 24-7-1308. Separation from service — Payment.

### SECTION.

- 24-7-1309. Benefits from Arkansas Teacher Retirement System.
- 24-7-1310. Death of participant.
- 24-7-1311. Effect of participation — Service credit.
- 24-7-1312. Federal taxation.
- 24-7-1313. Limitation on benefit enhancement — Acts 1997, No. 953.
- 24-7-1314. Early participation.
- 24-7-1315. Duty of board of trustees.

**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-7-1301 — 24-7-1312 and 24-7-1314 may not apply to §§ 24-7-1313 and 24-7-1315 which were enacted subsequently.

**Effective Dates.** Acts 1997, No. 118, § 7: July 1, 1997. Emergency clause provided: “Emergency. It is hereby found and determined by the Eighty- First General Assembly of the State of Arkansas that changes are necessary for the effective management and continued financial operation of the Teacher Deferred Retirement Option Plan; that administrative efficiency dictates those changes be made at the beginning of the state fiscal year on July 1st; and that these changes are essential to the protect the financial interests of the membership of the Teacher Retirement System. Therefore, in order to protect the members of the System, an emergency is hereby declared to exist, and this act being necessary for the immediate

preservation of the public peace, health, and safety, shall become effective July 1, 1997.”

Acts 1997, No. 953, § 6: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty- First General Assembly of the State of Arkansas that member contributions to the teacher deferred retirement option plan accounts need to be adjusted; that current law does not provide for that option; and changes in the current laws are necessary to continue the operation of the teacher deferred retirement option plan. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997.”

Acts 1999, No. 773, § 5: Mar. 22, 1999. Emergency clause provided: “It is found and determined by the Eighty-second General Assembly of the State of Arkan-

sas that the deferred retirement option (DROP) for the Teacher Retirement System requires no employer contributions by the school districts, that some school districts are unnecessarily expending funds for employees on the DROP, that this threatens the general level of education of all students, especially in small school districts where every dollar is needed, and that this law will immediately correct this situation so school districts will retain all necessary funds for expenditure for the general benefit of the students and not make unnecessary expenditures to benefit certain select employees. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the

veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1590, § 8: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the Teacher Retirement System has reduced the amount of service credit needed for full retirement to twenty-eight (28) years of credited service, that the Teacher Deferred Retirement Option Plan is an important incentive to keep experienced teachers in the classroom rather than retiring completely, that experienced teachers are a valuable human resource and should be encouraged to stay in the classroom, and that the beginning of the state's fiscal year is the best time to implement any change in retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

### RESEARCH REFERENCES

**Am. Jur.** 60A Am. Jur. 2d, Pens., §§ 826, 1154, 1614.

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### 24-7-1301. Election to participate — Conditions.

(a) In lieu of terminating employment and accepting a service retirement benefit pursuant to § 24-7-101 et seq., any person who is a member of the Arkansas Teacher Retirement System and who meets the conditions specified in subsection (b) of this section may elect to participate in the Teacher Deferred Retirement Option Plan and to defer the receipt of retirement benefits in accordance with the provisions of this subchapter.

(b) The condition required for participation in the plan is that the member must have at least thirty (30) years of service credit in the system.

**History.** Acts 1995, No. 1096, § 1.

### 24-7-1302. Application — Review.

(a) When a member of the Arkansas Teacher Retirement System wishes to elect participation in the Teacher Deferred Retirement Option Plan, the member shall fill out and cause to be executed such application form or forms as have been determined to be necessary for the

reasonable and prudent administration of the plan by the Board of Trustees of the Arkansas Teacher Retirement System.

(b)(1) The member's plan application shall be reviewed within a reasonable period of time and a determination shall be made whether or not the member meets the eligibility requirements specified in this subchapter.

(2) The member's plan date shall be the later of:

(A) The first day of the second month following the determination that the member is eligible for plan participation; or

(B) The date requested by the member on the application.

**History.** Acts 1995, No. 1096, § 1; 1997, No. 118, § 1.

**Amendments.** The 1997 amendment, in (b)(1), deleted "The board shall review" from the beginning, inserted "shall be

reviewed," and substituted "a determination shall be made" for "shall determine"; rewrote the introductory language of (b)(2); and deleted "board's" preceding "determination" in (b)(2)(A).

### **24-7-1303. Contributions to Arkansas Teacher Retirement System.**

(a) When a member begins participation in the Teacher Deferred Retirement Option Plan, both member and employer contributions to the Arkansas Teacher Retirement System on behalf of the member shall cease.

(b)(1) It is the intent of the General Assembly that the employer contribution to the system that has ceased for a participant in the Teacher Deferred Retirement Option Plan will become a part of the general operating fund of the school district to be used for any purpose including employee salaries.

(2) The school district shall not make contributions to any tax-qualified retirement plan on behalf of any employee participating in the Teacher Deferred Retirement Option Plan. However, this prohibition shall not be applicable to the extent necessary to comply with contractual obligations incurred by a school district prior to February 1, 1999.

**History.** Acts 1995, No. 1096, § 1; 1999, No. 773, § 1.

**Amendments.** The 1999 amendment added (b); and made stylistic changes.

### **24-7-1304. Election of annuity options.**

(a) A member who elects participation in the Teacher Deferred Retirement Option Plan may elect one (1) of the annuity options provided in § 24-7-706.

(b) The election will be made at the time the member separates from service and is granted a monthly retirement benefit, and will be deemed to apply to the member's plan benefit as well as to the member's monthly retirement benefit from the Arkansas Teacher Retirement System at the time it becomes payable.

**History.** Acts 1995, No. 1096, § 1; 1997, No. 118, § 2.

**Amendments.** The 1997 amendment substituted "will be made at the time the



member separates from service and is granted a monthly retirement benefit" for "may be made on or before the teacher deferred retirement option plan date, but not thereafter" in (b).

### **24-7-1305. Benefits.**

The member's Teacher Deferred Retirement Option Plan benefit shall be the monthly benefit to which the member would have been entitled if the member had actually retired on the plan date without regard to the provisions of § 24-7-708 related to conditions subjecting annuities to limitations, but with regard to the provisions of § 24-7-706 related to annuity options.

**History.** Acts 1995, No. 1096, § 1.

### **24-7-1306. Amount of contributions.**

(a)(1) Teacher Deferred Retirement Option Plan contributions shall be a percentage of the plan benefit.

(2) The percentage is one hundred percent (100%) reduced by the product of one percent (1%) multiplied by the number of years of contributory service credit and fractions thereof, and further reduced by the product of six-tenths percent (0.6%) multiplied by the number of years of noncontributory service credit and fractions thereof.

(3) In the event a member has more than thirty (30) years of service, the years of service above thirty (30) years shall be reduced by one-half percent (0.5%) for contributory years and three-tenths percent (0.3%) for noncontributory years.

(4) Those members already in the plan will have a one-time adjustment made in their contributions.

(5) The amount of the one-time adjustment will be determined by the Board of Trustees of the Arkansas Teacher Retirement System.

(6) Furthermore, the board is authorized to make further adjustments on the plan to make it cost neutral to the Arkansas Teacher Retirement System.

(b) For the purpose of § 24-7-709 related to disposition of residue, plan contributions shall be considered to be annuity payments.

**History.** Acts 1995, No. 1096, § 1;  
1997, No. 953, § 1.

**Amendments.** The 1997 amendment added the last four sentences in (a).

### **24-7-1307. Account — Credit.**

(a) The member's Teacher Deferred Retirement Option Plan account shall be the account in which shall be accumulated at plan interest the member's plan contributions.

(b) At the end of each fiscal year, the Board of Trustees of the Arkansas Teacher Retirement System shall credit each plan partici-

pant's plan account with plan interest on the mean balance in the account for the fiscal year.

**History.** Acts 1995, No. 1096, § 1.

#### **24-7-1308. Separation from service — Payment.**

(a) The member's participation in the Teacher Deferred Retirement Option Plan shall cease at the time the member separates from service and is granted a monthly retirement benefit by the Board of Trustees of the Arkansas Teacher Retirement System.

(b)(1) When the member's participation in the plan ceases, the member may elect to receive the balance in the plan account as a lump sum or as a monthly benefit paid in the form elected by the member for payment of the plan.

(2) The board shall determine factors to be used for the conversion of plan balances to monthly amounts.

(c) When the member's participation in the plan ceases, the board shall cause the member's plan benefit to be paid directly to the member in the form of regular monthly amounts in the same amount and manner as would have been the case if the member had retired on the plan date and had made the same election pursuant to § 24-7-706 that was made on or before the plan date.

**History.** Acts 1995, No. 1096, § 1.

#### **24-7-1309. Benefits from Arkansas Teacher Retirement System.**

In the event that a Teacher Deferred Retirement Option Plan participant applies for benefits from the Arkansas Teacher Retirement System pursuant to § 24-7-704 related to disability retirement, the application shall be treated as an application for voluntary retirement pursuant to § 24-7-701, and no benefits other than those that would be payable without regard to the disability shall become payable.

**History.** Acts 1995, No. 1096, § 1.

#### **24-7-1310. Death of participant.**

In the event that a Teacher Deferred Retirement Option Plan participant dies, the benefits payable from the plan shall be determined according to § 24-7-710(b)(1)(A) and (B), provided, however, the plan participant's surviving spouse may choose to receive the plan benefit in a lump sum without affecting options on the monthly retirement benefit payable from the Arkansas Teacher Retirement System.

**History.** Acts 1995, No. 1096, § 1;  
1997, No. 118, § 3.

**Amendments.** The 1997 amendment  
rewrote this section.

**24-7-1311. Effect of participation — Service credit.**

(a) The election to participate in the Teacher Deferred Retirement Option Plan is irrevocable.

(b) Under no circumstances shall a member receive service credit under any state-supported retirement system during a period of plan participation or following a period of such participation.

**History.** Acts 1995, No. 1096, § 1.

**24-7-1312. Federal taxation.**

(a) The Teacher Deferred Retirement Option Plan of the Arkansas Teacher Retirement System is intended to operate in accordance with Section 415 and other applicable sections of the Internal Revenue Code.

(b) Any provision of the plan that is found to be in conflict with an applicable provision of the Internal Revenue Code is hereby declared null and void.

**History.** Acts 1995, No. 1096, § 2.

**U.S. Code.** Section 415 of the Internal

Revenue Code, referred to in this section, is codified at 26 U.S.C. § 415.

**24-7-1313. Limitation on benefit enhancement — Acts 1997, No. 953.**

(a) No benefit enhancement provided for by § 24-7-1306 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by § 24-7-1306 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 953, § 2.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-7-1301 — 24-7-1312 and 24-7-1314 may not apply to this section which was enacted subsequently.

References to "this chapter" in §§ 24-7-

101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**24-7-1314. Early participation.**

(a) The Board of Trustees of the Arkansas Teacher Retirement System, in consultation with its actuary, may promulgate rules and regulations to allow members having at least twenty-eight (28) but less than thirty (30) years of credited service to enter the Teacher Deferred Retirement Option Plan as early participants. The board may authorize the early participation as soon as it is technologically feasible and actuarially appropriate.



(b) If the board authorizes early participation, the plan contribution under § 24-7-1306 shall be based upon the contribution percent payable for a participant with thirty (30) years of service, reduced by at least an additional one-half of one percent (0.5%) of the plan benefit for each month the member begins participating in the plan prior to having thirty (30) years of credited service. The board may increase the percentage required as an early participation reduction in order to provide a fair and just and reasonable benefit for all members of the Arkansas Teacher Retirement System and to provide for appropriate actuary considerations.

**History.** Acts 1999, No. 1590, § 1.

### 24-7-1315. Duty of board of trustees.

The Board of Trustees of the Arkansas Teacher Retirement System shall present to the Joint Committee on Public Retirement and Social Security Programs information concerning the statutory authority and actuarial appropriateness of proposed board actions to establish or revise a multiplier, any benefit, or a provision of a deferred retirement option plan.

**History.** Acts 1999, No. 1590, § 2.

**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-7-1301 — 24-7-1312 and 24-7-1314 may not apply to this section which was enacted subsequently.

References to “this chapter” in §§ 24-7-

101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## SUBCHAPTER 14 — ARKANSAS TEACHER RETIREMENT SYSTEM AFFORDABLE HOUSING INVESTMENT ACT

### SECTION.

- 24-7-1401. Short title.
- 24-7-1402. Legislative purpose.
- 24-7-1403. Definitions.
- 24-7-1404. Authority — Responsibility.
- 24-7-1405. Trust assets.

### SECTION.

- 24-7-1406. Facilities.
- 24-7-1407. Scope.
- 24-7-1408. Appropriate investment of funds.
- 24-7-1409. Permit of approval.

**Effective Dates.** Acts 1999, No. 555, § 17: Mar. 12, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the state needs to assure that the system is able to provide the best possible benefits, including safe, adequate, and affordable facilities, for the system’s members and that several changes in, and clarification of, existing laws are immediately necessary in order for the system to continue to efficiently,

effectively and timely administer the member’s retirement benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the

veto is overridden, it shall become effective on the date the last house overrides the veto.”

**24-7-1401. Short title.**

This subchapter may be known and shall be cited as the “Arkansas Teacher Retirement System Affordable Housing Investment Act”.

**History.** Acts 1999, No. 555, § 1.

**A.C.R.C.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**24-7-1402. Legislative purpose.**

The General Assembly of the State of Arkansas finds, determines, and declares that:

- (1) There is an existing and immediate need to assure members that they will have adequate and affordable housing and living facilities and other basic needs available to them upon retirement from active service;
- (2) Among these needs is the need for decent, safe, and affordable housing together with skilled and semiskilled medical personnel to assist with health problems not requiring acute-care hospitalization for qualified occupants;
- (3) While the power and authority of the Arkansas Teacher Retirement System to use the assets of the system to provide for such needs is probably implied, the statutes governing the system are not sufficiently clear so as to give administrators, financial institutions, governmental agencies, and others guidance needed to proceed with measures to make provisions for such needs; and
- (4) The purpose and intent of this subchapter is to make clear that the system has the statutory authority to utilize assets of the system and other resources available to it so as to provide or assist in the provision for the housing and medical assistance alluded to in subdivisions (1) and (2) of this section, all as provided for, but subject to the limitations set forth in this subchapter.

**History.** Acts 1999, No. 555, § 2.

**A.C.R.C.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**24-7-1403. Definitions.**

As used in this subchapter, unless the context otherwise requires:

(1) "Assisted living facility" means retirement housing at which minimal food, security, and medical assistance services are available for occupants;

(2) "Board" means the Board of Trustees of the Arkansas Teacher Retirement System;

(3) "Facilities" when used without elaboration means and refers to any or all the facilities referred to in this subchapter, including, but not limited to, retirement housing, assisted living facility, skilled nursing facility, nursing facility, or any combination thereof, built, owned, and operated for the exclusive use and benefit of qualified occupants;

(4) "Members" means any individual who is a member of the system;

(5) "Nursing facility" means a nursing home or a distinct part of another retirement housing facility not meeting the skilled nursing facility licensure regulations, but which provides on a more limited basis skilled nursing and supportive care;

(6) "Qualified occupant" means any member or the dependent of any member who is receiving or is designated by a member to receive any plan benefit from the system or any other person deemed by the board, by regulation promulgated by the board or otherwise, to be a suitable occupant of the facility;

(7) "Retirement housing" means residential housing facilities;

(8) "Skilled nursing facility" means a nursing home or a distinct part of a retirement housing facility, which home or distinct part is licensed by the Office of Long-Term Care of the Department of Human Services, or any similar successor agency, as meeting the skilled nursing facility licensure regulations and which provides skilled nursing care and supportive care on a twenty-four-hour basis to residents whose primary need is for availability of skilled nursing care on an extended basis; and

(9) "System" means the Arkansas Teacher Retirement System as established by § 24-7-201 et seq.

**History.** Acts 1999, No. 555, § 3.

**A.C.R.C.** References to "this chapter" in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## **24-7-1404. Authority — Responsibility.**

(a) **AUTHORIZATION.** In addition to all of the other powers and authorities previously granted to the Arkansas Teacher Retirement System along with the other Arkansas retirement systems and specifically in addition to those powers set forth in § 24-3-410 [repealed], the system is authorized to construct, acquire by purchase, gift, or otherwise, and to own and operate facilities.

(b) **ADDITIONAL AUTHORITY.** In furtherance of the authority granted in subsection (a) of this section and for the other purposes set forth in this subsection, the system, either directly or indirectly through a wholly owned subsidiary, is authorized and empowered to:



(1) Investigate and obtain information concerning members' present and projected needs for services such as those offered by the facilities;

(2) Construct and equip facilities or acquire by gift or purchase existing buildings and the sites upon which they are situated for use as or to be converted to facilities and held as investments of the system while providing additional benefits to members;

(3) Provide for the operation and management of the facilities so constructed or acquired and arrange for providing of benefits to members through the use of such facilities at a rent or charge to qualified occupants upon such terms and conditions as the respective board may determine;

(4) Execute contracts, including by way of example, but not limited to, leases (as lessor or lessee), purchase agreements, construction contracts, and management agreements, necessary to accomplish the purposes of this subchapter;

(5) Incur debt as necessary to accomplish the purposes of this subchapter;

(6) Apply for, receive, accept, and use any moneys and properties from the United States or any state or any department or agency thereof; from any public or private corporation of any nature; and from any individual or group;

(7) Establish and enforce minimum standards and criteria for the management, maintenance, and operation of all facilities authorized by this subchapter;

(8) Provide for the management, maintenance, and operation of the facilities as may be required by this subchapter or otherwise by law to be managed, maintained, or operated by the Board of Trustees of the Arkansas Teacher Retirement System;

(9) Cooperate with the Arkansas Development Finance Authority for the issuance of bonds pursuant to the Arkansas Development Finance Authority Act, § 15-5-101 et seq., to finance the acquisition, construction, leasing or equipping, or purchase of the facilities authorized by this subchapter;

(10) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes, and authorities set forth in this subchapter and to carry out the intent of this chapter;

(11) To enter into lease-purchase agreements, as lessee or lessor, to obtain the facilities;

(12) Create wholly owned subsidiary corporations, limited liability companies, and other legal entities to facilitate the financing of facilities and to own or operate facilities. Such subsidiary corporations or other legal entities may be a venture in a joint venture, a general or limited partner in a partnership, a member of a limited liability company, and may have such status in other legal entities composed of governmental agencies (federal or state), private individuals, partnerships, corporations, or other entities, as might be necessary or desirable to accomplish the purposes of this subchapter; and

(13)(A)(i) Guarantee, wholly or partially, debt obligations of any subsidiary corporation or other owned entity; enter into agreements to purchase or repurchase debt obligations of any subsidiary corporation or other owned entity; and to take such other measures as might be appropriate to enhance the credit and the ability of any of its subsidiary corporations or other owned entities to borrow money.

(ii) Provided, however, any instrument or agreement containing a guaranty of the system must prominently state that the guaranty is limited to the assets of the system and does not constitute a pledge of the full faith and credit of the system or of the State of Arkansas.

(iii) In addition to the limitations set forth in subdivision (b)(13)(A)(ii) of this section, the system shall not be authorized to enter into any kind of guaranty or credit enhancement arrangement if the amount of debt guaranteed or credit enhanced when added to all previous guaranty or enhancement arrangements still in effect would exceed three percent (3%) of the total assets of the system as reflected on its most recent balance sheet.

(B) If the system should enter into any guaranty or other credit enhancement arrangement for any subsidiary corporation or other owned entity, it shall be entitled to charge such subsidiary or other entity a fee for providing the credit enhancement. Such fee is not to exceed one percent (1%) of the principal amount of the credit enhanced, unless the board, with the advice of counsel, finds that the charging of such a fee could adversely affect the credit being enhanced by adversely affecting the availability or the cost of the credit or have any other adverse effect on such credit.

**History.** Acts 1999, No. 555, § 4.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901,

24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

**Publisher’s Notes.** Former § 24-3-410, referred to in (a), was repealed by Acts 1997, No. 1194, § 7.

## 24-7-1405. Trust assets.

When investing and managing trust assets as a prudent investor, the Board of Trustees of the Arkansas Teacher Retirement System may consider the benefits members may obtain from investments which return more than a return on principal but also provide other benefits to the members, such as health care, housing, and entertainment, including, but not limited to, investment in the ownership or operation of facilities for the use and benefit of qualified occupants.

**History.** Acts 1999, No. 555, § 5.

**A.C.R.C. Notes.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## **24-7-1406. Facilities.**

The Board of Trustees of the Arkansas Teacher Retirement System shall make the final determination regarding the location, design, purpose, construction, and operation of the facilities. All agreements and other matters concerning the buying, trading, selling, renting, renovating, or acquiring of any facility as authorized by this subchapter shall be matters of public record and available for public inspection.

**History.** Acts 1999, No. 555, § 6.

**A.C.R.C.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## **24-7-1407. Scope.**

Nothing in this subchapter shall be construed as to in any way limit or alleviate the obligation of the Board of Trustees of the Arkansas Teacher Retirement System to provide retirement benefits to the members of the Arkansas Teacher Retirement System.

**History.** Acts 1999, No. 555, § 7.

**A.C.R.C.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## **24-7-1408. Appropriate investment of funds.**

If made in compliance with the requirements and limitations of this subchapter and in compliance with the prudent investor rule set forth in §§ 24-3-417 — 24-3-426, investments made by the Arkansas Teacher Retirement System in facilities are hereby declared by the General Assembly to be an appropriate investment for funds of the system.

**History.** Acts 1999, No. 555, § 8.

**A.C.R.C.** References to “this chapter” in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701, 24-7-702, 24-7-704 — 24-7-720, 24-7-723,

24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## **24-7-1409. Permit of approval.**

Nothing in this subchapter exempts the Arkansas Teacher Retirement System, its subsidiaries, corporations, or other related legal entities from the requirement to acquire a permit of approval, as set forth in § 20-8-101 et seq., or any Office of Long-Term Care licensure or certification requirement to own, operate, or manage a long-term care facility.

**History.** Acts 1999, No. 555, § 9.

**A.C.R.C.** References to “this chapter”

in §§ 24-7-101 — 24-7-206, 24-7-209 — 24-7-502, 24-7-601 — 24-7-607, 24-7-701,



24-7-702, 24-7-704 — 24-7-720, 24-7-723, 24-7-801, 24-7-803 — 24-7-901, 24-7-903 — 24-7-1312, and 24-7-1314 may not apply to this section which was enacted subsequently.

## CHAPTER 8

### RETIREMENT OF JUDGES AND COURT EMPLOYEES

#### SUBCHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. ARKANSAS JUDICIAL RETIREMENT SYSTEM.
3. MUNICIPAL JUDGES AND CLERKS GENERALLY.
4. MUNICIPAL JUDGES AND CLERKS — COUNTIES WITH POPULATION OF 150,000.
5. MUNICIPAL JUDGES AND CLERKS AND POLICE JUDGES — MISCELLANEOUS PROVISIONS.
6. DEFERRED RETIREMENT OPTION PLAN. [REPEALED.]
7. TIER TWO ACTUAL JUDICIAL SERVICE BENEFIT PLAN.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

#### SUBCHAPTER 2 — ARKANSAS JUDICIAL RETIREMENT SYSTEM

##### SECTION.

- 24-8-201. Public policy.
- 24-8-202. Applicability.
- 24-8-203. Board of trustees.
- 24-8-204. Administration.
- 24-8-205. Trust fund.
- 24-8-206. Annual actuarial valuation.
- 24-8-207. Membership generally — Prior service credit.
- 24-8-208. [Repealed.]
- 24-8-209. Contributions — Members — Refund.
- 24-8-210. Contributions — State.
- 24-8-211. Contributions — Cessation upon retirement.
- 24-8-212. Credited service — Transfer of service as municipal judge.
- 24-8-213. Credited service — Transfer of fourteen years' service as prosecuting attorney.
- 24-8-214. Credited service — Transfer of four years' service as prosecuting attorney.
- 24-8-215. Eligibility for benefits — Retirement generally.

##### SECTION.

- 24-8-216. Eligibility for benefits — Early retirement.
- 24-8-217. Eligibility for benefits — Disability retirement.
- 24-8-218. Retirement and survivors' benefits generally.
- 24-8-219. Rights of surviving unremarried spouses of certain judges.
- 24-8-220. Restrictions on benefits.
- 24-8-221. [Repealed.]
- 24-8-222. Credited service — Transfer of service as juvenile judge.
- 24-8-223. Redetermination of benefits.
- 24-8-224. Benefits when serving past mandatory retirement age.
- 24-8-225. Limitation on benefit enhancement — Acts 1997, No. 926.
- 24-8-226. Minimum benefits.
- 24-8-227. Definition.
- 24-8-228. Proposals to establish or revise benefits.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-8-201 — 24-8-207 and 24-8-209 — 24-8-220 may not apply to §§ 24-8-222 — 24-8-228 which were enacted subsequently.

**Effective Dates.** Acts 1953, No. 365, § 11: approved Mar. 28, 1953. Emergency clause provided: "Because this Act is a compact or agreement as to those who may certify for benefits under its provi-

sions, and because the state's public policy is to foster the independence, dignity, and integrity of the judiciary, it is found that the public peace, health and safety requires its immediate availability; therefore an emergency is declared and all of its provisions shall become effective from and after its passage."

Acts 1965, No. 139, § 10: Mar. 2, 1965. Emergency clause provided: "Because of the present economic conditions making it extremely difficult to attract and retain highly capable members of the legal profession as members of the state judiciary, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 249, § 3: approved Mar. 10, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that it is becoming increasingly difficult to attract well-trained members of the Arkansas bar to the bench; that liberal retirement benefits are conducive to attracting capable judges to serve upon the courts of this State; and, that in order to reward the judges for their loyal service and to attract talented men to serve, it is necessary that this Act become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage."

Acts 1971, No. 358, § 4: Mar. 22, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State of Arkansas has established various retirement plans designed to provide retirement security for public officials and employees, and that under certain circumstances elected officials who have rendered long service as a prosecuting attorney are, upon being elected to a judicial office covered by the Judicial Retirement System, denied an opportunity to obtain full credited service in the Judicial Retirement System for such former service as an elected prosecuting attorney; that service as an elected prosecuting attorney for the minimum period of years as provided in this Act, constitutes a substantial contribution to

the judicial process of this State and should be given equal treatment upon application for credited services for said years of service in the Judicial Retirement System upon election by such person to the judgeship as a circuit or chancery judge, or as a justice of the supreme court; and that the immediate passage of this Act is necessary to establish provisions for obtaining such retirement benefits and to enable any person so elected to a judicial office to gain the benefits of retirement protection maintained by law. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 192, § 4: Mar. 2, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State of Arkansas has established various retirement plans designed to provide retirement security for public officials and employees, and that under certain circumstances elected officials who have rendered service as a prosecuting attorney are, upon being elected to a judicial office covered by the Judicial Retirement System, denied an opportunity to obtain full credited service in the Judicial Retirement System for such former service as an elected prosecuting attorney; that service as an elected prosecuting attorney for the minimum period of years as provided in this Act, constitute a substantial contribution to the judicial process of this State and should be given equal treatment upon application for credited services for said years of service in the Judicial Retirement System upon election by such person to the judgeship as a circuit or chancery judge, or as a justice of the Supreme Court; and that the immediate passage of this Act is necessary to establish provisions for obtaining such retirement benefits and to enable any person so elected to a judicial office to gain the benefits of retirement protection maintained by law. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 407, § 6: Mar. 21, 1973. Emergency clause provided: "It is hereby

found and determined by the General Assembly of the State of Arkansas that it is becoming increasingly difficult to attract well-trained members of the Arkansas Bar to the Bench and that liberal retirement benefits are conducive to attracting capable judges to serve upon the courts of this State; and, that in order to reward the judges for their loyal service and to attract talented men to serve, it is necessary that this Act become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 333, § 4: Mar. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that it is becoming increasingly difficult to attract well-trained members of the Arkansas Bar to the bench and that liberal retirement benefits are conducive to attracting capable judges to serve upon the courts of this state; and, that in order to reward the judges for their loyal service and to attract talented men to serve, it is necessary that this Act become effective immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 484, § 9: Mar. 19, 1975; Acts 1979, No. 636, § 4: Mar. 28, 1979. Emergency clauses provided: "It is hereby found and determined that some surviving unremarried widows of deceased Supreme Court and Circuit and Chancery Court Judges now have no opportunity to receive survivor benefits under said system; that it is in the best interest of the citizens of this State that legislation be enacted whereby such surviving widows may qualify for benefits; and this Act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 825, § 3: Mar. 28, 1981. Emergency clause provided: "It is hereby

found and determined by the General Assembly that the present law relating to judicial retirement benefits is not clear with respect to the salary upon which retirement benefits and survivors' benefits are to be computed in those cases where, after retirement under the System, a judge is subsequently elected or appointed to a judicial office for which the compensation is greater than the compensation for the judicial office held by such judge at the time of his initial retirement; that this Act is designed to clarify the law in this respect and to assure that the retirement benefits and survivor benefits under the Judicial Retirement System will be based on the salary provided for the judicial office last held by the retirant, if the compensation for that office is greater than the compensation received by the judge at the time of his initial retirement. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 158, § 3: Feb. 14, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of retired judges are willing to perform temporary duty, but are hesitant due to uncertainty as to the effect of such temporary service upon their retirement benefits; and that this Act is immediately necessary to eliminate such uncertainty. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 616, § 6: emergency clause failed to pass. Emergency clause provided: "It is hereby found and determined by the General Assembly that this Act should go into effect July 1, 1983 in order to provide for the efficient operation of the Chancery; that unless this emergency clause is adopted the Act may not be effective until after July 1, 1983. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be effective from and after July 1, 1983." Approved Mar. 22, 1983.

Acts 1983, No. 922, § 18: July 1, 1983,



except § 3, which is effective Apr. 7, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1983 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1983 could work irreparable harm upon the proper administration and provision of essential governmental programs; and that the immediate effectiveness of Section 3 of this Act is essential to maintaining the fiscal integrity of the Judges Retirement Fund which would otherwise work irreparable harm upon the provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect as follows: Section 3 of this Act shall be effective immediately upon passage and approval of this Act; and all other Sections and provisions of this Act shall be effective from and after July 1, 1983."

Acts 1987, No. 897, § 3: Apr. 13, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law establishing the method whereby a municipal judge may transfer credited service to the Judicial Retirement System is inadequate; that the present law results in inequity; and that the inequity will continue until this Act becomes effective. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 407, § 5: Mar. 9, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that retired judges of the Judicial Retirement System are currently serving in active judicial office in this state by reason of election or appointment, and that in order to make clear and certain the rights of such judges and their survivors as to the retirement benefits and survi-

vors' benefits to be received from the Judicial Retirement System after such judge's active judicial service is terminated, it is necessary that this act become effective immediately. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1355, § 5: became law without Governor's signature. Noted Apr. 17, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the service rendered by circuit judges to the citizens and the State of Arkansas has not been adequately rewarded by the compensation provided to them, that certain circuit judges who chose not to retire at the mandatory retirement age will even be stripped of their retirement benefits; that this will create an inequity for all those ineligible judges and justices, and that the effective and efficient administration of justice for state government demands that this inequity be corrected immediately. Therefore, in order to correct this inequity, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 129, § 5: July 1, 1997. Emergency clause provided: "Emergency. It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the redetermination of benefits provision of the Arkansas Judicial Retirement System needs clarification and that the effective administration of the system will be aided by implementing these changes at the beginning of the State's fiscal year. Therefore, in order to promote sound administration in State government, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective July 1, 1997."

Acts 1997, No. 236, § 5: Feb. 21, 1997. Emergency clause provided: "Emergency. It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that the current language in the Federal Internal Revenue Code makes it imperative that changes be

made in laws of the Arkansas Judicial Retirement System regarding employee contributions for income tax treatment purposes to save the member-judges' money; that administrative efficiency dictates those changes be made at the beginning of the calendar year on January 1st; and that these changes are essential to protect the financial interest of the membership of the Arkansas Judicial Retirement System. Therefore, in order to protect the financial interest of the members of the System, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor

may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 388, § 6: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that historically the Judicial Retirement System has recomputed retirement benefits on July 1 of each year to reflect a cost of living increase; that this act modifies the cost of living increase; and that unless this emergency clause is adopted, this act will not go into effect on July 1 of this year; and that unless this emergency clause is adopted, this act will not be effective until July 1 of the succeeding year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1325, § 14: July 1, 1999, except §§ 2 and 3 which are effective July 30, 1999. Emergency clause provided: "It is found and determined by the Eighty-second General Assembly of the State of Arkansas that Act 311 of 1999 changes the amount of additional monthly benefits in the State Highway Employees' Retirement System and they are necessary for the continued financial stability of the current retirees, that clarifications are needed in order to make Act 311 take effect in an orderly fashion, that these changes in Act 311 must then take effect at the same time Act 311 becomes effective, and that it is necessary to implement the changes in benefits at the beginning of the current fiscal year. Therefore an emergency is declared to exist and this act, except for Sections 2 and 3, being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

## RESEARCH REFERENCES

**Am. Jur.** 60A *Am. Jur. 2d*, Pensions, § 1733.

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### 24-8-201. Public policy.

It is declared to be the state's public policy that chancery and circuit court judges and justices of the Arkansas Supreme Court may retire or

be retired when that course appears to be in the best interest of the official concerned and for the public welfare. Factors suggesting the desirability of retirement are physical disability, advanced age, or other infirmities calculated to materially impair usefulness. In addition, it is the public policy of the state to provide sufficient retirement and survivors' benefits for the chancery and circuit court judges and justices of the Arkansas Supreme Court of the state to attract and retain highly capable members of the legal profession for service in the state judiciary.

**History.** Acts 1953, No. 365, § 1; 1965, No. 139, § 1; A.S.A. 1947, § 22-901.

### **24-8-202. Applicability.**

The provisions of this act shall not be retroactive but shall extend benefits from the time of its passage. It shall also apply to judges now living who retired prior to the passage of this act and to the survivors of those judges.

**History.** Acts 1965, No. 139, § 7; A.S.A. 1947, § 22-912.

**Publisher's Notes.** As to former retirement provisions for Supreme Court justices, see Acts 1941, No. 262, §§ 1-3 and Acts 1941, No. 265, § 1.

As to former retirement provisions for circuit and chancery judges, see Acts 1945, No. 185, § 1.

In reference to the term, "passage of this act," Acts 1965, No. 139 was signed by the Governor and took effect on March 2, 1965.

**Meaning of "this act".** Acts 1965, No. 139, codified as §§ 24-8-201, 24-8-202, 24-8-215, 24-8-217, 24-8-218, 24-8-220.

### **24-8-203. Board of trustees.**

(a) The administration and control of the Arkansas Judicial Retirement System shall be vested in a board known as the Board of Trustees of the Arkansas Judicial Retirement System.

(b)(1) The members of the board shall consist of five (5) persons appointed by the Arkansas Judicial Council.

(2) The members shall serve at the pleasure of the council.

(3) One (1) of the members shall be elected by the board to serve as chairman.

(c) The duties of the board shall be:

(1) To make all rules and regulations necessary and proper for carrying out the provisions of this section;

(2) To provide administrative direction and control of the executive director and staff as may from time to time be required;

(3) To appoint an actuary, or firm of actuaries, to be a technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary shall perform such duties as are



required by him under this subdivision (c)(3) and as are from time to time required by the board;

(4) To appoint professional investment counsel to be the board's investment advisor or money manager;

(5) To serve without pay but may receive expense reimbursement in accordance with § 25-16-901 et seq.; and

(6) To do any and all things necessary for the proper execution of this section.

(d) The board shall meet at least quarterly and at other times as necessary at the call of the chairman.

**History.** Acts 1953, No. 365, § 3; 1981, No. 604, § 1; 1985, No. 235, § 1; A.S.A. 1947, § 22-903; Acts 1995, No. 1282, § 1; 1997, No. 240, § 1; 1997, No. 250, § 232.

**Publisher's Notes.** Acts 1995, No. 1282 became law without the Governor's signature.

**Amendments.** The 1995 amendment rewrote (b)(1).

The 1997 amendment by No. 240 substituted "five (5) persons" for "three (3) persons" in (b)(1).

The 1997 amendment by No. 250 rewrote (c)(5).

**Cross References.** Reimbursement of board, § 25-16-901 et seq.

## **24-8-204. Administration.**

(a)(1) The executive director and administrative staff of the Arkansas Public Employees' Retirement System shall be the executive director and administrative staff of the Arkansas Judicial Retirement System.

(2) All administrative records of the Arkansas Judicial Retirement System shall be maintained within the administrative offices of the Arkansas Public Employees' Retirement System.

(b)(1) The Judicial Retirement Board shall continue to exercise the powers, functions, and duties previously exercised.

(2) Nothing in this section shall be construed to diminish or otherwise alter the powers, functions, and duties of the board.

(c) All costs of administering the Arkansas Judicial Retirement System shall be paid from the Judges Retirement Fund, but no payment for such expenses shall be made unless authorized by the board.

**History.** Acts 1983, No. 922, §§ 4, 6, 11; A.S.A. 1947, §§ 22-958, 22-959, 22-963.

## **24-8-205. Trust fund.**

(a) In addition to the Judges Retirement Fund in the State Treasury, a bank trust fund or funds may be established and maintained in a federally insured depository institution designated by the Board of Trustees of the Arkansas Judicial Retirement System.

(b) The board shall be the trustees of the funds, subject to the other provisions of this section, and may employ professional investment

counsel in either an advisory capacity only or as a money manager with authority to execute transactions.

(c) The funds of the system shall be invested and reinvested in accordance with the following procedure:

(1) From time to time, the board shall formulate the policy to be followed in future investment activity;

(2) If the board employs investment counsel with authority to execute transactions, the counsel or money manager shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the moneys or investments of the system pursuant to the provisions of this section and in accordance with the current investment policy filed with the board;

(3) At least semiannually, the investment counsel shall file with the board a written report setting forth, for the period since its last report, all investments purchased and sold, all receipts and disbursements, and any other transactions concerning system moneys;

(4) At each regular meeting, the board shall examine each written report received from the investment counsel since the last regular meeting;

(5) Anything in this section to the contrary notwithstanding, from time to time the board may direct a specific investment activity and shall be fully responsible for the direction; and

(6) Anything in this section to the contrary notwithstanding, investment activity shall be subject to the terms, conditions, limitations, and restrictions imposed by law upon state public employee retirement plans in the making and disposing of their investments.

**History.** Acts 1983, No. 922, § 7; 1985, No. 1008, § 1; A.S.A. 1947, § 22-960.

#### **24-8-206. Annual actuarial valuation.**

An actuarial valuation shall be made annually to determine how well the Arkansas Judicial Retirement System is meeting the financial objectives applicable to all state-supported retirement systems.

**History.** Acts 1983, No. 922, § 9; A.S.A. 1947, § 22-962.

#### **24-8-207. Membership generally — Prior service credit.**

(a) All chancery judges, circuit judges, judges of the Arkansas Court of Appeals and justices of the Arkansas Supreme Court, whether elected or appointed to office, shall participate in the Arkansas Judicial Retirement System.

(b) Any active member who did not become a member at the time of his initial election or appointment may acquire prior service credit by paying into the system all contributions, together with interest, that would have been paid if he had been a member of the system from the time he took office until he became enrolled.

**History.** Acts 1953, No. 365, § 5; 1985, No. 232, § 1; A.S.A. 1947, § 22-905.

### 24-8-208. [Repealed.]

**Publisher's Notes.** This section, concerning membership of the Director of the Administrative Office of the Courts, was repealed by Acts 1993, No. 944, § 2. The

section was derived from Acts 1965, No. 496, § 2; 1971, No. 599, § 1; 1973, No. 237, § 2; A.S.A. 1947, § 22-143. For present law, see § 24-4-740.

### 24-8-209. Contributions — Members — Refund.

(a) The contribution of each member of the Arkansas Judicial Retirement System shall be six percent (6%) of each member's annual salary.

(b) In the event a judge ceases to be a member prior to qualifying for retirement benefits, he shall be entitled to a refund of all contributions paid by him into the system.

(c)(1) For purposes of deferring federal and state income tax and pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code, 26 U.S.C. § 414 (h)(2), as adopted by § 26-51-414, the state shall pick up the members' contributions to the judicial retirement fund as required by this section and payable on or after January 1, 1997.

(2) Member contributions picked up by the state shall be paid from the same source of funds used for the payment of salary to a member. A deduction shall be made from each member's salary, equal to the amount of the member's contribution picked up by the employer. For all other purposes, member contributions picked up by the state shall be considered member contributions.

(3) The provisions of subdivisions (c)(1) and (2) of this section providing for the state to pay the member's contributions for tax deferral under Section 414(h) of the Internal Revenue Code shall be effective from and retroactive to January 1, 1997.

**History.** Acts 1983, No. 616, § 5; 1985, No. 233, § 1; A.S.A. 1947, § 22-908.1; Acts 1997, No. 236, § 1.

**Amendments.** The 1997 amendment added (c).

**U.S. Code.** The Internal Revenue Code of 1954 referred to in this section is codified as 26 U.S.C. § 1 et seq.

### 24-8-210. Contributions — State.

(a) The state, as employer, shall make contributions to the Arkansas Judicial Retirement System of twelve percent (12%) of the active member payroll.

(b) The Chief Fiscal Officer of the State is authorized and directed to make annual transfers on each July 1 to the Judges Retirement Fund from the Constitutional Officers Fund and the State Central Services Fund such amounts of money equal to the difference between the statutory employer contribution rate and the actuarially computed employer contribution rate as determined in the most recent actuarial valuation.



**History.** Acts 1983, No. 922, § 8;  
A.S.A. 1947, § 22-961.

**24-8-211. Contributions — Cessation upon retirement.**

When a judge is certified as eligible for retirement, no further contribution shall be required of him.

**History.** Acts 1953, No. 365, § 9;  
A.S.A. 1947, § 22-909.

**24-8-212. Credited service — Transfer of service as municipal judge.**

Any person who shall have served as a municipal judge in any municipal court in this state and who holds credited service therefor in any retirement system or retirement fund is authorized to transfer his credited services in the retirement system or fund to the Arkansas Judicial Retirement System by:

(1) Notifying, in writing, the administrative body of each retirement plan of his intention to transfer his tenure;

(2) Authorizing the Board of Trustees of the Arkansas Judicial Retirement System or appropriate administrative body of his retirement system to transfer to the system any sums of money paid for his retirement to the retirement fund or system by the municipal judge and, at the option of the city council or board of directors, to transfer to the system the court costs collected during his tenure as municipal judge; and

(3)(A) Paying into the system an amount of money he would have paid into the system for an equal amount of tenure as a judge of the court to which he has been elected, less the amount of money from his present retirement system as authorized in this section.

(B) Upon transferring the credited service from his present retirement fund or system, the person shall be given credited service in the system for an equal number of years of credited service for which he has qualified under any other plan or system to which he has belonged by reason of his service as municipal judge.

**History.** Acts 1975, No. 333, § 3;  
A.S.A. 1947, § 22-904.2; Acts 1987, No. 897, § 1.

**24-8-213. Credited service — Transfer of fourteen years' service as prosecuting attorney.**

Any person who shall have served not less than fourteen (14) years as an elected prosecuting attorney in this state and who holds credited service therefor in the Arkansas Public Employees' Retirement System, as established by § 24-4-103, upon being elected as a circuit judge, chancery judge, or justice of the Arkansas Supreme Court, is authorized

to transfer his credited service in the Arkansas Public Employees' Retirement System to the Arkansas Judicial Retirement System by:

(1) Notifying, in writing, the administrative body of each of the retirement plans of his intention to so transfer his tenure;

(2) Authorizing the Board of Trustees of the Arkansas Public Employees' Retirement System to transfer to the Arkansas Judicial Retirement System any sums of money paid for his retirement to the Arkansas Public Employees' Retirement System by the elected prosecuting attorney; and

(3)(A) Paying into the Arkansas Judicial Retirement System an amount of money he would have paid into the system for an equal amount of tenure as a judge of the court to which he has been elected, less the amount of money transferred from the Arkansas Public Employees' Retirement System as authorized in this section.

(B) Upon transferring the credited service from the Arkansas Public Employees' Retirement System, the person shall be given credited service in the Arkansas Judicial Retirement System for an equal number of years of credited service for which he has qualified under the Arkansas Public Employees' Retirement System as an elected prosecuting attorney.

**History.** Acts 1971, No. 358, § 1;  
A.S.A. 1947, § 22-904.1.

#### **24-8-214. Credited service — Transfer of four years' service as prosecuting attorney.**

Any person who shall have served not less than two (2) years as an elected prosecuting attorney in this state and who holds credited service therefor in the Arkansas Public Employees' Retirement System, as established by § 24-4-103, anytime after being elected as a circuit judge, chancery judge, circuit-chancery judge, or justice of the Arkansas Supreme Court, is authorized to transfer his credited service in the Arkansas Public Employees' Retirement System to the Arkansas Judicial Retirement System by:

(1) Notifying, in writing, the administrative body of each of the retirement plans of his intention to so transfer his tenure;

(2) Authorizing the Board of Trustees of the Arkansas Public Employees' Retirement System to transfer to the Arkansas Judicial Retirement System any sums of money paid for his retirement to the Arkansas Public Employees' Retirement System by the elected prosecuting attorney; and

(3)(A) Paying into the Arkansas Judicial Retirement System an amount of money he would have paid into the system for an equal amount of tenure as a judge of the court to which he has been elected, less the amount of money transferred from the Arkansas Public Employees' Retirement System as authorized in this section.

(B) Upon transferring the credited service from the Arkansas Public Employees' Retirement System, the person shall be given

credited service in the Arkansas Judicial Retirement System for an equal number of years of credited service for which he has qualified under the Arkansas Public Employees' Retirement System as an elected prosecuting attorney.

**History.** Acts 1973, No. 192, § 1; A.S.A. 1947, § 22-913; Acts 1997, No. 926, § 1.

**Amendments.** The 1997 amendment, in the introductory paragraph, substi-

tuted "two (2) years as an elected prosecuting attorney" for "four (4) years as an elected prosecuting attorney" and inserted "circuit-chancery judge."

## **24-8-215. Eligibility for benefits — Retirement generally.**

(a) Any active member with a minimum of ten (10) years of credited service may voluntarily retire upon reaching sixty-five (65) years of age or thereafter upon filing a written application with the Board of Trustees of the Arkansas Judicial Retirement System.

(b) Any other member who has a minimum of twenty (20) years of credited service may retire regardless of age, and any judge or justice who has served at least fourteen (14) years shall be eligible for benefits upon reaching age sixty-five (65).

(c)(1) Any judge or justice who becomes seventy (70) years of age during a term of office to which he has been elected may complete the term without forfeiting his rights to retirement benefits under this section.

(2)(A) Any judge or justice who is not eligible to retire at age seventy (70) may continue to serve as judge until the completion of the term of office in which he receives sufficient credited service to retire without losing his retirement benefits.

(B) The judge or justice shall lose all retirement benefits if he serves beyond the end of the term needed to get sufficient credited service to retire.

(3)(A) Otherwise, judges or justices must retire by their seventieth birthday or lose their retirement benefits.

(B) However, any active judge or justice who was serving prior to July 1, 1965, may continue to serve until any age and shall, upon retirement, be eligible to receive retirement benefits.

(d) In all cases of age and service retirement for judges or justices elected after July 1, 1983, the member must have a minimum of eight (8) years of actual service as a justice of the Supreme Court or a judge of the circuit or chancery courts or of the Arkansas Court of Appeals.

(e) The provisions of this section shall be accumulative to all present laws pertaining to the retirement of judges of the circuit and chancery courts and of justices of the Supreme Court and shall in no way repeal, amend, or modify such laws except as otherwise specifically provided in this section.

**History.** Acts 1953, No. 365, § 2; 1963, No. 223, § 1; 1965, No. 139, § 2; 1967, No. 249, § 1; 1969, No. 370, §§ 1, 2; 1973, No. 407, § 1; 1983, No. 231, § 1; 1985, No.

289, § 1; A.S.A. 1947, §§ 22-902, 22-902n; Acts 1987, No. 256, § 1; 1991, No. 792, § 1.

**Publisher's Notes.** Acts 1983, No. 231,



§ 4, provided that that act would apply only to those judges or justices first elected after July 1, 1983, and the rights and interests in the Judicial Retirement System of any judge or justice first elected prior to July 1, 1983 would be determined

according to the law as it existed prior to January 1, 1983, unless a judge or justice elected, in writing, that his or her rights in the Judicial Retirement System would be governed by Acts 1983, No. 231.

### **24-8-216. Eligibility for benefits — Early retirement.**

(a) Any judge of a circuit or chancery court who has fourteen (14) years or more of credited service in the Arkansas Judicial Retirement System, established by §§ 24-8-201, 24-8-203, 24-8-207, 24-8-211, 24-8-215, 24-8-217, and 24-8-218, may elect to retire and receive retirement benefits under the provisions of Acts 1953, No. 365, at any time after reaching age sixty-two (62) and before reaching age sixty-five (65).

(b) The retirement benefits of any circuit or chancery judge electing to retire before age sixty-five (65) shall be reduced six percent (6%) for each full year and proportionately for any part of a year that the judge retires before reaching age sixty-five (65).

**History.** Acts 1979, No. 648, § 1; is codified as §§ 24-8-201, 24-8-203, 24-8-207, 24-8-211, and 24-8-215 — 24-8-218.  
A.S.A. 1947, § 22-902.3.

**Publisher's Notes.** Acts 1953, No. 365

### **24-8-217. Eligibility for benefits — Disability retirement.**

(a) Any member of the Arkansas Judicial Retirement System who has served a minimum of three (3) consecutive years shall receive retirement benefits if any incapacitating disability, as determined by the Judicial Retirement Board, shall occur during any term for which the judge has been elected.

(b) The three-year service requirement shall only apply to judges elected after July 1, 1983.

(c)(1) A judgment of disability should not be granted by the board until it is reasonably assured of a judge's permanent physical or mental incapacity to perform the duties of his judicial office.

(2) The board should act only upon proper certification of incapacity by two (2) or more physicians.

**History.** Acts 1953, No. 365, § 2; 1963, No. 223, § 1; 1965, No. 139, § 2; 1967, No. 249, § 1; 1969, No. 370, § 1; 1973, No. 407, § 1; 1983, No. 231, § 1; A.S.A. 1947, § 22-902.

**Publisher's Notes.** As to applicability of 1983 amendment, see Publisher's Notes to § 24-8-215.

### **24-8-218. Retirement and survivors' benefits generally.**

(a) The retirement benefits to be paid an eligible and qualified member under the provisions of this section shall be one-half ( $\frac{1}{2}$ ) of the annual salary payable to the last judicial office held and shall be payable for the recipient's life.

(b)(1) Survivors' benefits shall be one-half ( $\frac{1}{2}$ ) of the amount of the retirement benefits.

(2) Upon the death of an active judge who has served at least three (3) years, or any other judge who has met or could have met the qualifications for retirement benefits under any section of this subchapter, his survivors shall receive a sum equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits provided in subsection (a) of this section.

(3) The requirement of three (3) years of service shall only apply to judges elected after July 1, 1983.

(4) Survivors' benefits shall be payable as follows:

(A) If the decedent is survived by a spouse to whom he has been married for not less than five (5) years and with whom he is living at the time of his death and if he is not survived by any minor child or children, then the spouse shall draw for life, or until remarriage, a sum equal to one-half ( $\frac{1}{2}$ ) of the benefits provided in subsection (a) of this section;

(B)(i) If the decedent is survived by both an eligible spouse and minor children, then one-half ( $\frac{1}{2}$ ) of the survivors' benefits shall be paid to the spouse for life, or until remarriage. The other one-half ( $\frac{1}{2}$ ) of the survivors' benefits shall be paid to the guardian of the minor children during the period of minority.

(ii) When all of the children cease to be minors, then the survivors' benefits paid to the minor children shall be paid to the spouse;

(C) If the decedent is not survived by an eligible spouse but is survived by minor children, then the survivors' benefits, i.e., one-half ( $\frac{1}{2}$ ) of the benefits provided in subsection (a) of this section, shall be payable to the guardian of the minor children during the period of minority.

(5) If a surviving spouse who is receiving survivors' benefits under this section remarries and the benefits are discontinued, and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(6) No surviving spouse shall be eligible to receive survivors' benefits on more than one (1) member account.

(c)(1) The retirement benefits and survivors' benefits provided for in this section shall be based on the salary for the judicial office last held by the member qualifying for retirement as fixed by law at the time any payment of benefits is made rather than on the salary for the office at the time of the member's retirement.

(2) The retirement benefits shall be increased or decreased from time to time as the salary for the particular judicial office is increased or decreased.

(3)(A) This method of determination of the amount of retirement or survivors' benefits shall be applicable to any person who is a member of the Arkansas Judicial Retirement System on or before June 30, 1983.

(B) For all judges or justices first elected after July 1, 1983, the benefit payable shall be limited to one-half ( $\frac{1}{2}$ ) of the salary for the office at the time of the member's retirement.

(d)(1) Entitlement to retirement compensation and survivors' benefits for those judges who have retired as of June 30, 1983, shall be based upon certificates of the Judicial Retirement Board previously filed with the Auditor of State.

(2) Entitlement to retirement compensation and survivors' benefits for those judges who retire on or after July 1, 1983, shall be evidenced by the certificate of the board transmitted to the executive director.

(3) All retirement compensation and survivors' benefits shall be paid monthly from the Judges Retirement Fund.

(4) All retirement and survivors' benefits provided by this subchapter shall be paid from the fund to be administered by the executive director and staff of the Arkansas Public Employees' Retirement System.

**History.** Acts 1953, No. 365, § 4; 1963, No. 223, § 2; 1965, No. 139, § 3; 1971, No. 88, §§ 1, 2; 1973, No. 407, §§ 2, 3; 1975, No. 333, § 1; 1981, No. 825, § 1; 1983, No. 231, § 3; 1983, No. 373, § 1; 1983, No. 922, § 10; 1985, No. 1077, § 1; A.S.A. 1947, § 22-904; Acts 1993, No. 407, § 1; 1999, No. 399, § 3.

**Publisher's Notes.** As to applicability of amendment by Acts 1983, No. 231, see Publisher's Notes to § 24-8-215.

**Amendments.** The 1993 amendment,

in (c)(2)(A), deleted "and continuously serves in the position for a minimum of one (1) year" following "while serving in the judicial office," and inserted "such" following "termination of"; in (c)(2)(B)(i), substituted "the judge's" for "his" and substituted "the judge if the judge has served continuously in such position for a minimum of one (1) year" for "him"; and added (c)(2)(B)(ii) and (c)(2)(B)(iii).

The 1999 amendment repealed former (c)(2).

## **24-8-219. Rights of surviving unremarried spouses of certain judges.**

(a) The surviving unremarried spouse, sixty-five (65) years of age or older, of any person who served as a justice of the Arkansas Supreme Court or as a judge of any circuit or chancery court of the State of Arkansas for a period of eight (8) years or longer, who is not now receiving, or entitled to receive, survivors' benefits under the Arkansas Judicial Retirement System shall be entitled to receive survivors' benefits under the system upon meeting the qualifications therefor and otherwise complying with the provisions of this section.

(b)(1) Any person desiring to apply for and draw benefits provided for in this section shall make application to the Auditor of State.

(2) The application shall be supported and accompanied by proof satisfactory to the Auditor of State that the applicant is an unmarried spouse, sixty-five (65) years of age or older, of a person who served either on the Supreme Court or as a circuit or chancery judge for a period of eight (8) years or longer, and that the applicant was married to the deceased justice or judge for at least five (5) years, was married to him at the time of his death, and was living with him in marriage at the time of his death.

(c) Upon receipt of the application and proof, the Auditor of State shall determine the total amount of compensation received by the deceased judge subsequent to July 1, 1953, and shall compute four



percent (4%) of that amount as the amount the applicant shall pay to the Auditor of State if the applicant desires to qualify for survivor benefits under the system as permitted in this section.

(d) The Auditor of State shall also determine the amount which would have been paid to the applicant had the deceased spouse been qualified under the system.

(e)(1) The Auditor of State shall credit the amount as determined in subsection (d) of this section against the amount which has been computed as the four percent (4%) amount which the applicant is required to pay under subsection (c) of this section.

(2) The applicant shall be required to pay to the Auditor of State only the amount by which the four percent (4%) figure exceeds the credit.

(3) This payment shall be deposited in the State Survivor's Account by the Auditor of State.

(f) Upon payment of the adjusted amount as required and prescribed in this section, if payment is due after application of credits, the applicant shall be entitled to draw survivors' benefits as prescribed in the system from the first day of the month following payment of the adjusted amount to the Auditor of State, or from the first day after the accounts are adjusted if no payment is due.

(g) Survivors' benefits provided for in this section shall be paid in the same manner as other survivors' benefits under the system are paid.

**History.** Acts 1975, No. 484, §§ 1-7; 1979, No. 636, §§ 1, 2; 1981, No. 909, §§ 1-3; A.S.A. 1947, §§ 22-949 — 22-955.

## 24-8-220. Restrictions on benefits.

(a) Acts 1953, No. 365, as amended by this act, is to be in all of its sections complementary, except that no person may take benefits under two (2) or more sections of this act at the same time.

(b) Retirement and survivors' benefits shall be measured by the salary payable for the position last held by the retired or deceased judge at the time of payment of any particular benefit, so that, should salaries of the judicial positions covered by this act be altered, the amount of benefits payable under this act shall be proportionately altered.

**History.** Acts 1965, No. 139, § 6; A.S.A. 1947, § 22-911.

**Publisher's Notes.** Acts 1953, No. 365 is codified at §§ 24-8-201, 24-8-203, 24-8-

207, 24-8-211, 24-8-215, 24-8-217, and 24-8-218.

**Meaning of "this act".** See note to § 24-8-202.

## 24-8-221. [Repealed.]

**Publisher's Notes.** This section, concerning judicial service after retirement, was repealed by Acts 1999, No. 390, § 8.

The section was derived from Acts 1965, No. 139, § 4; 1981, No. 603, § 1; 1983, No. 158, § 1; A.S.A. 1947, § 22-910.

**24-8-222. Credited service — Transfer of service as juvenile judge.**

(a) Any member of the Arkansas Judicial Retirement System who has credit in the Arkansas Public Employees' Retirement System for service as a juvenile judge is authorized to transfer that credit to the Arkansas Judicial Retirement System by:

(1) Notifying in writing the administrative body of each of the retirement systems of the intention to transfer his tenure; and

(2) Authorizing the Board of Trustees of the Arkansas Public Employees' Retirement System to transfer to the Arkansas Judicial Retirement System all contributions paid by and on behalf of the former juvenile judge, together with six percent (6%) interest compounded from the date of payment; and

(3) Paying into the Arkansas Judicial Retirement System the total contributions which would have been paid, based on the member's current salary, for an equal amount of tenure as a member of this system, less the amount of money transferred from the Arkansas Public Employees' Retirement System.

(b) Upon transferring his credited service, the member shall be credited in the Arkansas Judicial Retirement System with the same amount of time with which he had been previously credited in the Arkansas Public Employees' Retirement System for service as a juvenile judge.

**History.** Acts 1987, No. 198, § 1.

**A.C.R.C.** References to "this subchapter" in §§ 24-8-201 — 24-8-207 and 24-8-

209 — 24-8-220 may not apply to this section which was enacted subsequently.

**24-8-223. Redetermination of benefits.**

(a) Each July 1 the Arkansas Judicial Retirement System shall redetermine the amount of each monthly benefit which has been payable by the system for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months.

(b) The redetermined amount shall be the amount of benefit payable as of the immediately preceding July 1 increased by three percent (3%).

(c) This method of redetermination of the amount of the retirement benefits shall be applicable to any judge first elected after July 1, 1983.

**History.** Acts 1995, No. 887, §§ 1-3; 1997, No. 129, § 1; 1999, No. 388, § 1.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-8-201 — 24-8-207 and 24-8-209 — 24-8-220 may not apply to this section which was enacted subsequently.

**Amendments.** The 1997 amendment rewrote this section.

The 1999 amendment rewrote this section.

**24-8-224. Benefits when serving past mandatory retirement age.**

(a) Notwithstanding § 24-8-215 regarding mandatory retirement under the Arkansas Judicial Retirement System for any judge or justice upon reaching seventy (70) years of age or any other law to the contrary, any judge or justice covered under the system who served continuously for at least sixteen (16) years, who is at least eighty (80) years of age, who is not serving on April 19, 1995, and who is ineligible for retirement due to having served beyond the mandatory retirement age shall be entitled to receive retirement benefits under the system.

(b) Retirement benefits under this section shall be retroactive to January 1, 1995, or, for judges or justices retiring after 1995, to January 1 of the year of retirement.

**History.** Acts 1995, No. 1355, § 1.

**A.C.R.C.** References to “this subchapter” in §§ 24-8-201 — 24-8-207 and 24-8-

209 — 24-8-220 may not apply to this section which was enacted subsequently.

**24-8-225. Limitation on benefit enhancement — Acts 1997, No. 926.**

(a) No benefit enhancement provided for by § 24-8-214 shall be implemented if it would cause the publicly supported retirement system’s unfunded actuarial accrued liabilities to exceed a thirty-year amortization.

(b) No benefit enhancement provided for by § 24-8-214 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

**History.** Acts 1997, No. 926, § 2.

**A.C.R.C.** References to “this subchapter” in §§ 24-8-201 — 24-8-207 and 24-8-

209 — 24-8-220 may not apply to this section which was enacted subsequently.

**24-8-226. Minimum benefits.**

The following minimum benefits shall apply to any plan, based only on actual service, under the Arkansas Judicial Retirement System:

(1) The annual minimum disability benefit shall be equal to twenty-four percent (24%) of the annual salary of the judge or justice; and

(2) The annual minimum survivors’ benefit shall be an amount equal to twelve percent (12%) of the annual salary of the judge or justice.

**History.** Acts 1999, No. 1067, § 1.

**A.C.R.C.** References to “this subchapter” in §§ 24-8-201 — 24-8-207 and 24-8-

209 — 24-8-220 may not apply to this section which was enacted subsequently.



**24-8-227. Definition.**

Unless the context requires otherwise, any listing of judges or justices in §§ 24-8-201 et seq. and 24-8-701 et seq. shall include all judges and justices in the Arkansas Judicial Retirement System.

**History.** Acts 1999, No. 1067, § 3.

**A.C.R.C.** References to "this subchapter" in §§ 24-8-201 — 24-8-207 and 24-8-

209 — 24-8-220 may not apply to this section which was enacted subsequently.

**24-8-228. Proposals to establish or revise benefits.**

(a) The Board of Trustees of the Arkansas Judicial Retirement System shall present to the Joint Committee on Public Retirement and Social Security Programs information concerning the statutory authority and actuarial appropriateness of proposed board actions to establish or revise a multiplier or any benefit.

(b) An individual who received a refund of contributions from the system after January 1, 1998, may repay the contributions to the system no later than six (6) months after July 1, 1999.

**History.** Acts 1999, No. 1325, § 1.

**A.C.R.C.** References to "this subchapter" in §§ 24-8-201 — 24-8-207 and 24-8-

209 — 24-8-220 may not apply to this section which was enacted subsequently.

**SUBCHAPTER 3 — MUNICIPAL JUDGES AND CLERKS GENERALLY**

## SECTION.

- 24-8-301. Subchapter cumulative.
- 24-8-302. Board of trustees.
- 24-8-303. [Repealed.]
- 24-8-304. Benefits — Frequency of payment — Deficiencies.
- 24-8-305. Entitlement to benefits generally.
- 24-8-306. Eligibility for benefits — Regular and disability retirement — Widows' rights.
- 24-8-307. Eligibility for benefits — Cities of the first class or cities of the second class.
- 24-8-308. Eligibility for benefits — Twenty years of service.
- 24-8-309. Eligibility for benefits — Sixteen years of service as judge and city attorney.
- 24-8-310. Eligibility for benefits — Judge unlicensed to practice law.

## SECTION.

- 24-8-311. Eligibility for benefits — Clerks.
- 24-8-312. Right of transfer from or purchase of credit in Arkansas Public Employees' Retirement System or a reciprocal system.
- 24-8-313. Vote to pay benefits to certain clerks and spouses of judges.
- 24-8-314. Municipal judge filling partial term, etc.
- 24-8-315. Multicounty districts — Options.
- 24-8-316. [Repealed.]
- 24-8-317. Funding for retirement benefits.
- 24-8-318. Additional funding sources for retirement benefits.
- 24-8-319. Benefits.

**A.C.R.C. Notes.**

References to "this subchapter" in §§ 24-8-301, 24-8-302, 24-8-304 — 24-8-312, 24-8-314, and 24-8-319 may not apply

to §§ 24-8-313, 24-8-315, 24-8-317, and 24-8-318 which were enacted subsequently.

**Effective Dates.** Acts 1973, No. 432,

§ 10: Mar. 23, 1973. Emergency clause provided: "This act being deemed of importance to the Administration of justice in the Municipal Court system, it is considered necessary for the preservation of the public peace, health, and safety, and an emergency is hereby declared and it shall be in force and effect from and after its passage and approval."

Acts 1981, No. 62, § 3: Feb. 12, 1981. Emergency clause provided: "It is hereby found and determined that this Act is immediately necessary to allow any municipal court clerk, who inadvertently failed to elect to participate in the city retirement system prior to the deadline set forth in Act 432 of 1973, to withdraw from the Public Employees Retirement System and join the city retirement system; and that this Act is immediately necessary to allow such election. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 845, § 4: became law without Governor's signature, Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the municipal court of Warren, Arkansas is elected by the qualified electors of Bradley County and has countywide jurisdiction, and is more appropriately referred to as the 'Bradley County Municipal Court'; that the maximum salary currently prescribed by law for the judge for said court is inadequate; that this Act is designed to designate such court the 'Bradley County Municipal Court' and to increase the maximum salary authorized for the judge of said court and therefore should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 265, § 3: Mar. 5, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the intent of the Municipal Judges' Retirement law is to provide adequate and suitable benefits for the retirement of judges and for the security of their surviving widows, to the extent provided

in said Act, unless they shall remarry subsequent to the death of a municipal judge; that clarification of Act 432 of 1973, as amended, is necessary to enable the widow of a municipal judge who died while serving in such capacity and who had accumulated at least fifteen (15) years of service as a municipal judge in a county in this State authorized by the Constitution to have two districts and two county seats to obtain the benefits under the Judges' Retirement Act as intended for surviving widows of deceased municipal judges; and that the immediate passage of this Act is necessary to establish the rights of such widow to receive a widow's surviving benefit without undue delay upon reaching her forty-seventh (47th) birthday. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect immediately upon its passage and approval."

Acts 1987, No. 641, § 4: Apr. 4, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that due to the demise of revenue sharing many cities in the State are placed in a financial crisis of depleting general revenue to supply necessary services to their citizens; that shifting the payment of retirement benefits from the city general fund to another fund would free some monies to be used for such services. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 873, § 6: Mar. 22, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas that the salaries currently prescribed by law for judges of the various municipal courts in the State are inadequate to compensate the judges of such courts for their services; that the effective and efficient operation of the municipal courts in the State are essential to the administration of justice and that this act is necessary to assure the effective and efficient operation of such courts and should be given effect immediately. Therefore, an emergency is hereby declared to

exist, and this act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 499, § 2; effective retroactively to January 1, 1990.

Acts 1991, No. 904, § 28: Mar. 29, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the language of certain court cost statutes lacks uniformity; that such lack of uniformity is detrimental to the proper collection of such court costs; and that such language should be standardized to promote the proper collection of such costs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 71, § 6: Mar. 20, 1992. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas meeting in the First Extraordinary Session of 1992 that an error was made in the legislative process of incorporating amendments into the language of Act 851 of 1991 and a scrivener's error was made in the course of writing the bill which eventually became Act 429 of 1991 and that the errors in language will create some confusion as to the meaning of Act 851 of 1991 and the effectiveness of Act 429 of 1991 and thereby affect the administration of justice in the municipal courts of those affected counties and the retirement benefits of those fireman's funds. Therefore, in order to correct the errant language and dispel any confusion as to the meaning of Act 851 of 1991 and to correct the scrivener's errors of Act 429 of 1991, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 239, § 5: became law without the Governor's signature. Noted Feb. 24, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the retirement eligibility law for municipal judges is inadequate; that this act makes the necessary changes to include eligibility

criteria not now in the law; and that this act should be given effect as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 792, § 5: became law without Governor's signature. Noted Mar. 23, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the retirement eligibility law for municipal judges is inadequate; that this act makes the necessary changes to include eligibility criteria not now in the law; and this act should be given effect as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1242, § 5: became law without Governor's signature. Noted April 13, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the service rendered by municipal court clerks to the citizens and the State of Arkansas was not adequately compensated, that certain former municipal court clerks who chose not to remain in the PERS system will be stripped of their retirement benefits unless they are restored to them; and that this will create an inequity for all those former court clerks and equity and justice demands that this inequity be corrected immediately. Therefore, in order to correct this injustice and inequity, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995 (1st Ex. Sess.), No. 13, § 13: Oct. 23, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the current system of funding the state judicial system has created inequity in the level of judicial services available to the citizens of the state; and it is further determined that the current method of financing the state judicial system has become so complex as to make the admin-



istration of the system impossible, and the lack of reliable data on the current costs of the state judicial system prohibits any comprehensive change in the funding of the system at this time. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 571, § 6: Mar. 17, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that Act 1256 of 1995 repealed Arkansas Code § 24-8-303 and effectively capped the court costs funding mechanism used to fund the retirement benefits for municipal court judges and court clerks; that the use of court costs alone does not provide an adequate source of funding for the municipal judges’ and court clerks’ retirement benefits; that retirement benefits costs are continuing to rise faster than the current funding sources; and that it is sound financial planning and

necessary to prevent financial disaster to Arkansas cities’ to provide a broader financial base through additional sources of funding for these municipal retirement benefits. Therefore, in order to promote a sound financial plan and prevent financial disaster for Arkansas’ cities, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1999, No. 1066, § 12: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that benefit provisions applicable to local officers and employees need revision, and that the effective administration of this act makes it necessary for these changes to begin at the start of the state’s fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

**24-8-301. Subchapter cumulative.**

This subchapter shall not repeal existing laws of this state relating to the retirement of municipal court judges and municipal court clerks but shall be cumulative thereto, specifically to §§ 24-8-401 and 24-8-403 — 24-8-408, and acts amendatory thereof. It shall in no manner affect the rights or status of persons receiving or eligible to receive retirement benefits under the provisions of §§ 24-8-401 and 24-8-403 — 24-8-408.

**History.** Acts 1973, No. 432, § 9; 1981, No. 62, § 1; A.S.A. 1947, § 22-922.

**24-8-302. Board of trustees.**

(a) There is created in cities of the first class or cities of the second class a board of trustees which shall consist of the mayor, city clerk, city treasurer, city health officer, and municipal judges of the city.

(b) The board shall receive and administer the funds collected under the provisions of this subchapter and shall have the power to make necessary rules therefor.

(c)(1) The board shall have the authority to invest such funds as are not necessary for immediate use for payment of retirement benefits in interest-bearing securities of the State of Arkansas or certificates of the United States or any or all such securities.

(2) Subject to subdivision (c)(3) of this section, a city having a municipal judges’ and clerks’ pension plan with assets in excess of one

hundred thousand dollars (\$100,000) shall have full power to invest and reinvest the moneys of the plan and to hold, purchase, sell, assign, transfer, or dispose of any of the investments so made, as well as the proceeds of the investments and moneys. Such authority shall be implemented by the mayor and the city treasurer.

(3) The investments and reinvestments shall be made only in accordance with the prudent investor rule set forth in §§ 24-3-417 — 24-3-426.

(4) A city having a municipal judges' and clerks' pension plan with assets in excess of one hundred thousand dollars (\$100,000) may employ an investment advisor as its agent to make investment recommendations and to invest the assets pursuant to a written board investment policy, subject to the terms, conditions, limitations, and restrictions imposed by law upon investments of state retirement systems, as set forth in §§ 24-3-417 — 24-3-426.

(5) The investment policy shall not limit the investments to interest-bearing bonds.

(6) A city, mayor, or city treasurer who complies with the requirements of § 24-3-425(a) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(7) By accepting the delegation of a trust function from the trustees of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

(d)(1) The city treasurer shall be the treasurer of the board. At the direction of the board, he shall deposit the funds paid into the board in some suitable depository and shall draw and sign all necessary checks at the direction of the board.

(2) He shall execute a bond in a sum fixed by the board to guarantee his good faith in the handling of the funds coming into his hands under the provisions of this subchapter.

(e) The city clerk shall be the secretary of the board.

(f) The board shall constitute one (1) of its members as chairman, who shall serve for a period of two (2) years.

(g) Meetings of the board may be called by the chair or by a majority of the members in a manner established by the board.

(h)(1) The city clerk shall receive the sum of ten dollars (\$10.00) for each and every meeting attended but shall not be paid more than fifty dollars (\$50.00) in any one (1) year.

(2) All other members shall serve without pay.

**History.** Acts 1973, No. 432, § 7; 1983, No. 845, § 2; A.S.A. 1947, § 22-920; Acts 1995, No. 514, § 1; 1999, No. 49, § 1; 1999, No. 330, § 1.

**A.C.R.C. Notes.** The operation of subdivision (d)(2) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20,

1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

**Amendments.** The 1995 amendment rewrote (g).

The 1999 amendment by identical acts Nos. 49 and 330 added (c)(2)-(7).

**24-8-303. [Repealed.]**

**Publisher's Notes.** This section, concerning source and collection of funds, was repealed by Acts 1995, No. 1256, § 20, as amended by Acts 1995 (1st Ex. Sess.), No. 13, § 4. The section was derived from Acts 1973, No. 432, §§ 6, 8; 1975, No. 883, § 1; 1983, No. 187, § 1; A.S.A. 1947, §§ 22-

919, 22-921; Acts 1989 (3rd Ex. Sess.), No. 99, § 1; 1991, No. 904, §§ 16, 20; 1993, No. 162, § 1; 1995, No. 918, § 1; 1995, No. 1002, § 1; 1995, No. 1241, § 1. For present law, see §§ 16-10-308, 24-8-317, and 24-8-318.

**24-8-304. Benefits — Frequency of payment — Deficiencies.**

(a) All payments of retirement benefits under this subchapter shall be payable semimonthly.

(b)(1) In case the fund established by this subchapter should ever become deficient to pay retirement benefits due any persons under this subchapter, the city treasurer shall verify the deficiency.

(2) This deficiency shall be met by payment from the general funds of the city and proportionately from the general funds of the county if the salary of the judge of the municipal courts in the county is paid partially by the county, in such amount as may be necessary to continue the timely payment of retirement benefits to the persons entitled thereto.

(3) If funds thereafter accruing under this subchapter accumulate to become sufficient for the payment of benefits, then no further payment shall be made from the general funds of the city unless and until the fund provided by this subchapter should again become deficient and the deficiency is verified by the city treasurer.

**History.** Acts 1973, No. 432, § 5; A.S.A. 1947, § 22-918.

**24-8-305. Entitlement to benefits generally.**

(a) Any judge, licensed to practice law, of a municipal court established in any county and any clerk of such a municipal court appointed by the judges thereof shall be entitled to the benefits prescribed in this subchapter for such judges and clerks.

(b) Any judge of a municipal court who is not licensed to practice law shall be entitled to the benefits prescribed in § 24-8-310.

**History.** Acts 1973, No. 432, § 1; 1981, No. 410, § 1; A.S.A. 1947, § 22-914.

**CASE NOTES**

**Cited:** *Edwards v. City of Batesville*, 478 F. Supp. 855 (E.D. Ark. 1979).



**24-8-306. Eligibility for benefits — Regular and disability retirement — Widows' rights.**

(a) A judge of a municipal court upon reaching age sixty-eight (68) and having served for a minimum of seven (7) years immediately prior to retirement may retire.

(b)(1) If incapacitating illness or disability should occur during any term for which a judge has been elected, he shall be eligible to retire.

(2) The retirement benefits to be paid to the retiree shall be equal to one-half ( $\frac{1}{2}$ ) of the salary being paid at the time of retirement for and during his natural life.

(c) Notice of retirement under any provision of this subchapter shall be in writing and sent to the chairman of the board of trustees who, upon finding that the applicant meets the requirements for retirement, shall authorize the secretary of the board to issue vouchers in payment to the applicant in accordance with the provisions of this subchapter for and during the natural life of the applicant.

(d)(1) Upon the death of a judge receiving, or eligible to receive, retirement benefits under this subchapter, leaving a widow surviving, there shall be paid to the widow for the remainder of her natural life, or until she remarries, benefits equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits which the deceased judge was receiving, or would have been eligible to receive, at the time of his death.

(2) Upon the death of a judge while serving in that capacity, leaving a surviving widow who has been married to and living with the judge for at least five (5) years immediately preceding his death, that widow, if not remarried prior thereto, shall, upon reaching age fifty (50), be entitled to and shall receive, until her death or remarriage, benefits in an amount equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits to which the deceased judge would have been entitled had he been eligible for retirement on the date of his death.

(3)(A) Upon the death of a municipal judge, while serving in that capacity, in a county which is authorized by the Arkansas Constitution to have two (2) districts and two (2) county seats, and who has served as a municipal judge of the court for a minimum of fifteen (15) years, leaving a surviving widow who had been married to, and living with, the judge for at least fifteen (15) years immediately preceding his death, the widow, if not remarried prior thereto, shall, upon reaching age forty-seven (47), be eligible to apply for, and shall receive until her death or remarriage, benefits as authorized in this subdivision (d)(3) in an amount equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits to which the deceased judge would have been entitled had he been eligible for retirement on the date of his death.

(B) This subdivision (d)(3) shall apply to all such municipal judges now serving, or who shall serve in the future, or who have served as such during the five-year period immediately prior to March 5, 1985, who have accumulated fifteen (15) years of service as a municipal judge and who meet the other requirements of this subdivision (d)(3).

(C) This subdivision (d)(3) shall not apply to any retirement funds which are administered by the state, nor shall any surviving widow be entitled to the benefits provided by this subdivision (d)(3) unless the payment of the benefits has been approved by both the governing body of the city wherein the municipal court sits and the quorum court of the county wherein the municipal court sits.

**History.** Acts 1973, No. 432, § 2; 1977, No. 721, § 1; 1985, No. 265, § 1; A.S.A. 1947, § 22-915.

#### **24-8-307. Eligibility for benefits — Cities of the first class or cities of the second class.**

(a)(1) Upon the approval of a majority of the city council or the board of directors of a city of the first class or a city of the second class, and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court to which this subchapter applies who shall attain age fifty (50) and who shall have served at least sixteen (16) years in office as municipal judge shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(b)(1) Upon the approval of the governing body of the municipality and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court who shall attain age seventy (70) or over, who shall have served at least six (6) elective years in office as municipal judge, and who has served not less than two (2) or more elective years as a prosecuting attorney and as an Attorney General of the State of Arkansas shall be entitled to receive benefits provided by this subchapter.

(2)(A) If the judge resigns, retires from office, or is succeeded in office by another judge, he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(B) In addition thereto, the surviving widow of the judge shall be entitled to the benefits provided in this subchapter.

(c)(1) Upon approval of the governing body of the municipality and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court who shall attain age seventy-eight (78) or over, who shall have served at least four (4) years in office as municipal judge, and who has become disabled while serving as municipal judge shall be entitled to receive benefits provided by this subchapter.

(2)(A) If the judge resigns, retires from office, or is succeeded in office by another judge, then he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(B) In addition thereto, the surviving widow of the judge shall be entitled to the benefits provided in this subchapter.

(d) Any municipal judge receiving retirement benefits under the provisions of this subchapter shall not be eligible to receive retirement benefits under the provisions of §§ 24-8-401 and 24-8-403 — 24-8-408 in addition thereto.

(e)(1) Upon the approval of a majority of the city council or board of directors of a city of the first class or a city of the second class, any person who shall attain age fifty (50), and who shall have served two (2) or more years as an elected justice of the peace and three (3) or more years as a certified full-time law enforcement officer, and who has held the office of municipal judge not fewer than ten (10) years shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term for qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ( $\frac{1}{2}$ ) pay as provided in this section.

(4) In addition thereto, the surviving widow of the qualifying judge shall be entitled to the benefits provided in this subchapter until her death or remarriage.

(f)(1) Upon the approval of a majority of the city council or board of directors of a city of the first class or a city of the second class and the approval of the quorum court of the county, any person who at age fifty-five (55) has sixteen (16) years of service, with not less than eight (8) years as municipal judge and at least five (5) years as a deputy prosecuting attorney and three (3) years with any state agency for a total of sixteen (16) years, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term for qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ( $\frac{1}{2}$ ) pay as provided in this section.

(4) In addition thereto, the surviving widow of the qualifying judge shall be entitled to the benefits provided in this subchapter until her death or remarriage.



(g)(1) Upon the approval of the governing body of the municipality and of the county quorum court, if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court or county municipal court who shall attain age sixty-two (62) and who shall have served at least sixteen (16) years in office as municipal judge, or at least sixteen (16) years combined service as municipal judge, deputy prosecuting attorney, assistant attorney general, or city attorney shall be eligible to receive retirement benefits provided by this subsection.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, then he shall receive retirement pay for and during the remainder of his natural life in an amount, approved by the governing body or governing bodies, equal to not less than thirty-five percent (35%) nor more than fifty percent (50%) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(3) Any municipal judge who retires under this subsection shall be entitled to continue to participate in and be covered by the city/county health insurance program.

(h)(1) Upon the approval of the governing body of the municipality and of the county quorum court, if county funds are used to partially pay the salary of the judge of the municipal court, any person who has sixteen (16) or more years of public service, with not less than twelve (12) years as municipal judge and at least four (4) years of other public service as a state trooper, as deputy prosecuting attorney, and with active duty in the military aggregated together for a total of sixteen (16) years or more at public service, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term for qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ( $\frac{1}{2}$ ) pay as provided in this section.

(4) In addition thereto, the surviving widow of the qualifying judge shall be entitled to the benefits provided in this subchapter until her death or remarriage.

(i)(1) Upon the approval of a majority of the city council or board of directors of a city of the first class or a city of the second class and the approval of the quorum court of the county, if county funds are used to partially pay the salary of the judge of the municipal court, any person who at age fifty (50) has sixteen (16) years of service, with not less than eight (8) years as municipal judge and at least six (6) years as a prosecuting attorney or deputy prosecuting attorney and two (2) years with any state agency for a total of sixteen (16) years, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, he shall receive retirement benefits for and during the

remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(3) If incapacitating illness or disability should occur during the final term of qualification under these provisions, then the judge so elected shall be eligible to retire at one-half ( $\frac{1}{2}$ ) pay as provided in this section.

(4) In addition thereto, the surviving spouse of the qualifying judge shall be entitled to the benefits provided in this subchapter until his or her death or remarriage.

**History.** Acts 1973, No. 432, § 3; 1975, No. 392, § 1; 1977, No. 939, § 1; A.S.A. 1947, § 22-916; Acts 1993, No. 239, § 1; 1995, No. 792, § 1; 1997, No. 1322, § 1.

**Amendments.** The 1993 amendment added (e).

The 1995 amendment added (f).

The 1997 amendment added (g)-(i).

### **24-8-308. Eligibility for benefits — Twenty years of service.**

(a)(1) Any judge of a municipal court to which this subchapter applies who shall have served at least twenty (20) years in office as municipal judge, irrespective of age, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If incapacitating illness or disability should occur during the final term of qualifications under these provisions, then the judge so elected shall be eligible at one-half ( $\frac{1}{2}$ ) pay as provided in subsection (b) of this section.

(3) On the death of a municipal judge leaving a surviving widow who had been married to and living with the judge for at least ten (10) years, the surviving widow shall be eligible to apply for and shall receive until her death or remarriage, benefits as authorized in this subdivision (a)(3) in an amount equal to one-half ( $\frac{1}{2}$ ) the retirement benefits to which the deceased judge would have been entitled on the date of his death.

(b) If the judge resigns, retires from office, or is succeeded in office by another judge, then he shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

**History.** Acts 1973, No. 432, § 4; 1985, No. 1080, § 1; A.S.A. 1947, § 22-917; Acts 1999, No. 1329, § 1.

**Amendments.** The 1999 amendment added (a)(2) and (a)(3); and made stylistic changes.

### **24-8-309. Eligibility for benefits — Sixteen years of service as judge and city attorney.**

Upon the approval of the governing body of the municipality and of the county quorum court if county funds are used to partially pay the salary of the judge of the municipal court, any judge of a municipal court who has served or who shall serve at least twelve (12) years in office as municipal judge and who has also served four (4) years or more as city attorney in the same city shall, upon attaining age sixty-five

(65), receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

**History.** Acts 1973, No. 432, § 4; 1985, No. 1080, § 1; A.S.A. 1947, § 22-917.

#### **24-8-310. Eligibility for benefits — Judge unlicensed to practice law.**

(a) Any judge of a municipal court who is not licensed to practice law, who has served at least twenty (20) years as municipal judge or police judge, and who resigns, retires, or is succeeded in office shall receive retirement benefits upon attaining age sixty (60).

(b) These benefits shall continue for and during the remainder of his natural life in an amount equal to one-fourth ( $\frac{1}{4}$ ) of the salary payable to him at the time he resigned, retired, or was succeeded in office.

**History.** Acts 1973, No. 432, § 4; 1981, No. 410, § 2; 1985, No. 1080, § 1; A.S.A. 1947, § 22-917.

#### **24-8-311. Eligibility for benefits — Clerks.**

(a)(1) Any clerk of a municipal court to which this subchapter applies, appointed by the judges of the court, who shall attain age sixty (60) and who shall have served in office as clerk for at least ten (10) years, or who shall have served in office for at least twenty (20) years irrespective of age, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the clerk resigns, retires from office, or is succeeded in office by another clerk, the clerk shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of resignation, retirement, or succession in office.

(b) Upon the approval of the governing body of the municipality and following a determination of the actuarial soundness of the fund from which the benefits shall be paid, any court clerk of a municipal court who upon reaching age sixty-eight (68) will have served for a minimum of seven (7) years immediately prior to severance from employment may retire with a reduced benefit in an amount equal to seven-tenths (0.7) of the benefits payable under subsection (a) of this section.

(c)(1) The board of trustees by resolution may provide retirement benefits to a clerk who is incapacitated due to illness or disability and has served for a minimum of seven (7) years.

(2) The clerk may retire with a reduced benefit in an amount equal to seven-tenths (0.7) of the benefits payable under subsection (a) of this section.



**History.** Acts 1973, No. 432, § 4; 1985, No. 1080, § 1; A.S.A. 1947, § 22-917; Acts 1989, No. 714, § 1; 1991, No. 499, § 1.

**Publisher's Notes.** Acts 1991, No. 499, § 2, provided that the act shall apply retroactively to January 1, 1990.

**24-8-312. Right of transfer from or purchase of credit in Arkansas Public Employees' Retirement System or a reciprocal system.**

(a)(1) A judge of a municipal court and a clerk of a municipal court who, on March 23, 1973, were covered by the provisions of the Municipal Section of the Arkansas Public Employees' Retirement System shall, prior to January 1, 1982, make an election in writing as to whether to continue as a member of the Arkansas Public Employees' Retirement System in lieu of participating in the retirement benefits in this subchapter.

(2) In the event any such municipal judge or municipal court clerk shall elect to receive retirement benefits under this subchapter, they shall cease to be members of the Arkansas Public Employees' Retirement System.

(b)(1) In the case of all municipal judges and municipal court clerks who elected, in the manner provided in this subchapter, to receive retirement benefits under the provisions of this subchapter in lieu of benefits provided as a member of the Arkansas Public Employees' Retirement System, all contributions paid by the municipal judge or the municipal court clerk and all employer matching contributions paid to the Arkansas Public Employees' Retirement System in behalf of the municipal judge or the municipal court clerk shall be remitted, upon written request therefor by the board of trustees, as established in § 24-8-302 by the Arkansas Public Employees' Retirement System from the employer and employee accounts of the Municipal Section of the Arkansas Public Employees' Retirement System Fund to the board of trustees.

(2) Upon receipt of the contributions, the board of trustees shall deposit the contributions in the fund established for the payment of retirement benefits to retired municipal judges and municipal court clerks in the city as provided in this subchapter.

(c)(1) Any municipal court clerk or former municipal court clerk who was covered by the Arkansas Public Employees' Retirement System at the time of the municipal service or was eligible for coverage at that time who withdrew the service and the accumulated contributions to the system and who later becomes a member of the Arkansas Public Employees' Retirement System or of a reciprocal system shall, upon meeting the requirements prescribed in this subsection, be entitled to have the time of complete municipal service restored to his or her credit.

(2) In order for the member of the system or of the reciprocal system to be eligible to have the service credit restored, the member:

(A) Shall not be currently receiving benefits under the system or a reciprocal system;

(B) Shall be entitled to purchase no more than ten (10) years for the service rendered by the member as a municipal court clerk;

(C) Shall have at least ten (10) years' credited service with the system or a reciprocal system at the time of the purchase;

(D) Shall not have received credited service in the system or a reciprocal system in another state-supported retirement system or in a retirement system of the city in which the member was employed for the time period for which credit is being sought; and

(E) Contributes to the members' deposit account a sum of money equal to the amount he, and if the employer contributions were returned, the amount the employer, would have contributed to the account had he been a member of the system or a reciprocal system during the period of service with the municipal court for which the member is establishing credit. This amount shall be based upon his, and if the employer contributions were returned, the employer's, monthly contribution at the time of the member's service with the municipal court for which the member is establishing credit and interest thereon at the rate of six percent (6%) with interest compounded annually.

**History.** Acts 1973, No. 432, § 9; 1981, No. 62, § 1; A.S.A. 1947, § 22-922; Acts 1995, No. 1242, § 1.

**A.C.R.C. Notes.** Acts 1989 (3rd Ex. Sess.), No. 99, § 2, provides: "Notwithstanding the provisions of Ark. Code § 24-8-301 et seq., any city whose population was greater than 1,500 but less than 1,700 as reported in the 1980 Federal Decennial Census which has a municipal court established by law after January 1, 1977, but prior to January 1, 1978, which has made contributions to the Arkansas Pub-

lic Employees Retirement System on behalf of its clerk of the municipal court prior to the effective date of this Act may continue to participate in Arkansas Public Employees Retirement System and to make such contributions on behalf of its clerk and the clerk shall be entitled to retirement benefits from the Public Employees Retirement System only."

**Amendments.** The 1995 amendment added the subdivision designations in (a); inserted "a" preceding "clerk" in (a)(1); and added (c).

### **24-8-313. Vote to pay benefits to certain clerks and spouses of judges.**

(a) Upon a three-fourths ( $\frac{3}{4}$ ) vote of the board of trustees established under § 24-8-302, the fund established under § 24-8-301 et seq. may pay retirement benefits due the following persons:

(1) Former municipal court clerks who retired under retirement laws effective prior to March 23, 1973, and whose retirement benefits were paid from the city general fund; and

(2) The surviving spouse of a municipal judge who retired under retirement laws effective prior to March 23, 1973, and whose retirement benefits were paid from the city general fund.

(b) This section shall not repeal existing laws of this state relating to the retirement of municipal court judges and municipal court clerks but shall be cumulative to those laws. It shall in no manner affect the right or status of persons receiving or eligible to receive retirement benefits

under § 24-8-301 et seq. or under retirement laws effective prior to March 23, 1973.

(c) In case the fund established by § 24-8-301 et seq. should ever be or become deficient to pay retirement benefits due any person or persons under § 24-8-301 et seq. and those benefits due under this section, the treasurer of the board of trustees shall verify the deficiency, which shall be met by payment from the general funds of the city and proportionately from the general funds of the county if the salary of the judge and the clerk is paid partially by the county until such time as the fund accumulates funds sufficient to pay benefits.

**History.** Acts 1987, No. 641, §§ 1-3.

**A.C.R.C.** References to "this subchapter" in §§ 24-8-301, 24-8-302, 24-8-304 —

24-8-312, 24-8-314, and 24-8-319 may not apply to this section which was enacted subsequently.

#### **24-8-314. Municipal judge filling partial term, etc.**

(a) Any judge of a municipal court who was elected countywide to a partial term left vacant by the death of the former judge and who shall have completed the same and subsequently shall have been elected to and completed four (4) consecutive four-year terms and shall at the time of his retirement have attained age fifty (50), upon retirement shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his retirement.

(b) Upon his death, his surviving widow shall be entitled for the remainder of her natural life, or until she remarries, benefits equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits which the deceased judge was receiving at the time of his death.

**History.** Acts 1989, No. 873, § 4.

#### **24-8-315. Multicounty districts — Options.**

(a) The quorum court of any county which is divided into two (2) districts and has two (2) county seats and in which the municipal court is funded primarily by the county shall have the option to provide retirement benefits for the municipal court judge and the municipal court clerk under a local retirement plan provided for in § 24-8-301 et seq. or to include the municipal court judge and municipal court clerk in the Arkansas Public Employees' Retirement System.

(b)(1) In any county which is divided into two (2) districts and has two (2) county seats and in which the municipal court is funded primarily by the county, the quorum court is authorized to create a municipal court retirement board of trustees.

(2)(A) The board shall be composed of the county judge, county treasurer, county clerk, the mayor of the city in which the municipal court sits, the judge of the municipal court, and one (1) member of the quorum court that represents the service district in which the municipal court sits to be designated by the county judge.



(B) The members of the board shall serve without pay.

(C) The county judge shall be chairman of the board, the county clerk shall be secretary of the board, and the county treasurer shall be treasurer of the board.

(D)(i) The county treasurer, as treasurer of the board, shall deposit such funds as the board shall direct in a suitable depository and shall withdraw such funds on direction of the board.

(ii) The treasurer shall execute a bond in a sum fixed by the board to guarantee his good faith in the handling of the funds coming to his hands under the provisions of this section.

(c) The board shall meet once each year, and special meetings may be called by the chairman or a majority of the members at any time.

(d)(1) The board shall have the authority and duty to receive and administer the funds collected in the county under § 24-8-303 [repealed] and under subsection (e) of this section [repealed].

(2) The board shall have authority to invest such funds as are not necessary for immediate use for payment of retirement benefits in interest-bearing securities of the State of Arkansas or certificates of the United States, or any or all of such securities.

(e) [Repealed.]

(f)(1) Any county employer or municipal employer participating in the Arkansas Public Employees' Retirement System that is required by law to establish a local retirement plan for any employee shall have the option at the time of employment or at any time thereafter to provide retirement benefits for the employee under the local retirement plan or to include the employee in the Arkansas Public Employees' Retirement System. However, a municipality participating in the system or a municipality electing at some future date to participate in the system may not transfer a municipal court judge or municipal court clerk from a local plan to the system without the express permission of the affected municipal court judge or municipal court clerk.

(2)(A) The decision to enroll the employee in the system in lieu of a local retirement plan shall be made by the employer's governing body and the results certified to the Board of Trustees of the Arkansas Public Employees' Retirement System. The employer shall also certify that the employee has not received and will not be eligible to receive a benefit from a local retirement plan.

(B) Upon enrollment in the system, the member may receive credit at his or her option for the service rendered in the position prior to enrollment, subject to the following conditions:

(i) The member is a participating employee covered under the system at the time of the purchase;

(ii) The member furnishes proof in a form required by the system of the service and compensation received;

(iii) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he been a member during that time, all employer contributions based on the employer normal cost from the most recently completed

regular annual actuarial valuation and the compensation that would have been paid had he been a member during that time, and regular interest on the employee and employer contributions computed from the date the service was rendered to the date the payment is received by the system. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(iv) The payment shall be made in one (1) lump sum.

**History.** Acts 1991, No. 851, §§ 1-6; 1992 (1st Ex. Sess.), No. 71, § 1; 1995, No. 1256, § 20; 1995 (1st Ex. Sess.), No. 13, § 4; 1999, No. 1066, § 4.

**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-8-301, 24-8-302, 24-8-304 — 24-8-312, 24-8-314, and 24-8-319 may not apply to this section which was enacted subsequently.

**Amendments.** The 1995 amendment by No. 1256, as amended by Acts 1995 (1st Ex. Sess.), No. 13, § 4, repealed (e).

The 1999 amendment, in (f)(1), substituted “time of employment or at anytime thereafter” for “time of employment or within ninety (90) days of July 15, 1991,” and added the language beginning “However, a municipality participating in”; added the language beginning “The employer shall also certify that the employee has not received” to the end of (f)(2); added (f)(2)(i)—(f)(2)(iv); and made stylistic changes.

## 24-8-316. [Repealed.]

**Publisher’s Notes.** This section, concerning fees in lieu of levy, was repealed by Acts 1995, No. 1256, § 21, as amended

by Acts 1995 (1st Ex. Sess.), No. 13, § 5. The section was derived from Acts 1995, No. 1346, § 1.

## 24-8-317. Funding for retirement benefits.

(a)(1) After the repeal of § 24-8-303 providing for the levy of court costs to fund the municipal court judge and clerk retirement fund, a municipality having provided for retirement benefits for municipal court judges and court clerks in accordance with this subchapter shall continue to provide funds for the retirement benefits in that subchapter in accordance with the funding provisions of § 16-10-308(a)-(d), as long as those provisions allow.

(2) Those funds and any additional funds provided for by this section and § 24-8-318, if levied by the municipality, shall be to provide for the retirement benefits in that subchapter.

(b) The funds for the municipal court judge and clerk retirement fund provided for by § 16-10-308(a)-(d) and any additional funds for municipal court judge and court clerk retirement benefits provided for by this section and § 24-8-318, if levied by the municipality, shall be paid to the city treasurer, who shall place them into an account as provided for in this subchapter.

**History.** Acts 1997, No. 571, § 1.

**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-8-301, 24-8-302, 24-8-304 — 24-8-312, 24-8-314, and 24-8-319

may not apply to this section which was enacted subsequently.

**Cross References.** City administration of justice fund, § 16-10-308.

**24-8-318. Additional funding sources for retirement benefits.**

In addition to the funds for the municipal court judges and clerk retirement fund provided for by § 16-10-308(a)-(d), if the municipal judges retirement board of trustees determines by actuarial valuation that the account will not be able to meet its financial objective of paying for its current and any projected retirement benefits, a municipality may, beginning January 1, 1998, also add to the account, by city ordinance, any, or all, of the following moneys:

- (1) Up to five percent (5%) of all fines and forfeitures collected by the municipal court or by the city for violations of municipal ordinances or state laws;
- (2) An annual contribution from the city’s general fund in an amount recommended by actuarial valuation to meet its projected financial obligation; and
- (3) A one-time or occasional lump-sum payment from the city’s general fund in an amount determined by the city’s governing body, along with any payments or contributions from the county when the city and county share expenses and costs of a county-wide court.

**History.** Acts 1997, No. 571, § 2.

**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-8-301, 24-8-302, 24-8-304 — 24-8-312, 24-8-314, and 24-8-319

may not apply to this section which was enacted subsequently.

**Cross References.** City administration of justice fund, § 16-10-308.

**24-8-319. Benefits.**

Any person participating in a retirement plan authorized under this subchapter on or after July 1, 1999, shall be entitled to a retirement benefit if that person has ten (10) or more years of actual service in a plan covered by this subchapter and is at least sixty (60) years of age. If the person does not have sufficient service to draw the full benefit provided, then a partial benefit not to exceed the full benefit shall be payable when the person has reached the age requirement specified in this subchapter. The partial benefit shall be determined by multiplying the full benefit by the following fraction:

- (1) The numerator shall be the number of months of actual service under the provisions of this subchapter; and
- (2) The denominator shall be two hundred forty (240) months.

**History.** Acts 1999, No. 1066, § 1.

SUBCHAPTER 4 — MUNICIPAL JUDGES AND CLERKS — COUNTIES WITH  
POPULATION OF 150,000

SECTION.	SECTION.
24-8-401. Board of trustees.	
24-8-402. [Repealed.]	
24-8-403. Benefits — Frequency of payment — Deficiencies for any judge of a municipal	court — Proration upon insufficiency of fund for any county municipal judge.
	24-8-404. Entitlement to benefits generally.



## SECTION.

- 24-8-405. Eligibility for benefits — Regular and disability retirement — Widows' rights.
- 24-8-406. Eligibility for benefits for any judge of a municipal court or county municipal court prior to 1995 — Eligibility for benefits for county municipal judge after 1995.

## SECTION.

- 24-8-407. Eligibility for benefits — Twenty years of service.
- 24-8-408. Eligibility for benefits — Clerks.
- 24-8-409. Clerks' benefits — Actuarial valuations — Transfer of funds.
- 24-8-410. Benefits.

**Publisher's Notes.** Acts 1965, No. 19, § 9 repealed prior acts governing retirement of municipal judges but provided that the repeal did not affect the rights of any persons to whom benefits had accrued under those acts (Acts 1953, No. 138; 1955, No. 12 and 1961, No. 80).

**Effective Dates.** Acts 1967, No. 126, § 3: approved Feb. 22, 1967. Emergency clause provided: "Due to the fact that no provision was in Act 19 of 1965 for payment of retirement funds to retirees, and in order to give the authority to the Board of Trustees, it is found that an emergency exists, and this Act shall be in full force and effect from and after its passage."

Acts 1969, No. 102, § 6: Feb. 25, 1969. Emergency clause provided: "This Act being deemed of importance to the maintenance of desired standards in the administration of justice in the Municipal Court system, and therefore being considered necessary for the preservation of the public peace, health and safety, an emergency is declared to exist and it shall be in force and effect from and after its passage and approval."

Acts 1971, No. 300, § 3: Mar. 16, 1971. Emergency clause provided: "This Act, being deemed of importance to the administration of justice in the Municipal Court system, it is considered necessary for the preservation of the public peace, health and safety, and an emergency is hereby declared and it shall be in force and effect from and after its passage and approval."

Acts 1973, No. 229, § 3: Mar. 5, 1973. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that there is a need for clarification of the law prescribing pension benefits for widows of certain municipal judges; that the present status of the law works an undue hardship on those persons and that this act is necessary to the proper administration of justice and to the peace, health and safety of the people of Arkansas, an emergency is hereby declared and it shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 793, § 6: became law without Governor's signature. Noted Mar. 23, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that Acts 585 and 586 of 1993 vastly increased the cost of retirement benefits for judges of county municipal courts in counties with populations of more than one-hundred and fifty thousand people; that the retirement benefits paid to retiring municipal judges under those laws are excessively costly to the retirement funds for those counties; and that the fiscal responsibility dictates that only those retirement funds should be used to pay benefits for retiring municipal judges in case there are any deficiencies in the funds. Therefore, in order to guarantee the fiscal soundness of those retirement funds, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

**24-8-401. Board of trustees.**

(a)(1) In cities in a county having a population of one hundred fifty thousand (150,000) or more, in which county there are two (2) or more municipal courts with a judge of a municipal court licensed to practice law, there is created a board of trustees which shall consist of the mayor, city clerk, city treasurer, city health officer, and municipal judges of the city.

(2) In counties having a population of at least one hundred fifty thousand (150,000) and at least one (1) county municipal court, there is hereby created a board of trustees which shall consist of the county judge, county clerk, county treasurer, and the judge of the county municipal court.

(b)(1) The board shall receive and administer the funds collected under the provisions of this subchapter and shall have the power to make necessary rules therefor.

(2)(A) The board shall have the authority to invest such funds as are not necessary for the immediate use for payment of retirement benefits in interest-bearing securities of the State of Arkansas or certificates of the United States or any or all such securities.

(B) Subject to subdivision (b)(2)(C) of this section, a city or county having municipal judges' and clerks' pension plans with assets in excess of one hundred thousand dollars (\$100,000) shall have full power to invest and reinvest the moneys of the plan and to hold, purchase, sell, assign, transfer, or dispose of any of the investments so made, as well as the proceeds of the investments and moneys. Such authority shall be implemented by the mayor and the city treasurer, or the county judge and the county treasurer, respectively.

(C) The investments and reinvestments shall only be made in accordance with the prudent investor rule as set forth in §§ 24-3-417 — 24-3-426.

(D) A city or county having municipal judges' and clerks' pension plans with assets in excess of one hundred thousand dollars (\$100,000) may employ an investment advisor as its agent to make investment recommendations and to invest the assets pursuant to a written investment policy, subject to the terms, conditions, limitations, and restrictions imposed by law upon investments of state retirement systems, as set forth in §§ 24-3-417 — 24-3-426.

(E) The investment policy shall not limit the investments to interest-bearing bonds.

(F) A city, mayor, or city treasurer, or county, county judge, or county treasurer, respectively, who complies with the requirements of § 24-3-425(a) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(G) By accepting the delegation of a trust function from a city or county, an agent submits to the jurisdiction of the courts of this state.

(c)(1) The city treasurer or county treasurer, as the case may be, shall be the treasurer of the board and, at the direction of the board,

shall deposit the funds paid into the board in some suitable depository. He shall draw and sign all necessary checks at the direction of the board.

(2) He shall execute a bond in a sum fixed by the board to guarantee his good faith in the handling of any funds coming into his hands under the provisions of this subchapter.

(d) The city clerk or county clerk, as the case may be, shall be the secretary of the board.

(e) The board shall constitute one (1) of its members as chair, who shall serve for a period of two (2) years.

(f) Meetings of the board may be called by the chair or by a majority of the members in a manner established by the board.

(g)(1) The city clerk or county clerk, as the case may be, shall receive the sum of ten dollars (\$10.00) for each and every meeting attended, but he shall not be paid more than fifty dollars (\$50.00) in any one (1) year.

(2) All other members shall serve without pay.

**History.** Acts 1965, No. 19, §§ 1, 7; A.S.A. 1947, §§ 22-941, 22-947; Acts 1993, No. 585, § 1; 1995, No. 514, § 2; 1999, No. 48, § 1; 1999, No. 331, § 1.

**A.C.R.C. Notes.** The operation of subdivision (c)(2) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

**Publisher's Notes.** Acts 1999, No. 331

became law without the Governor's signature.

**Amendments.** The 1993 amendment added (a)(2); inserted "or county treasurer, as the case may be," following "city treasurer" in (c)(1); inserted "or county clerk, as the case may be" following "city clerk" in (d) and (g); and substituted "chair" for "chairman" in (e) and (f).

The 1995 amendment rewrote (f).

The 1999 amendment by identical acts Nos. 48 and 331 added (B)(2)(B)-(G); and made stylistic changes.

## 24-8-402. [Repealed.]

**Publisher's Notes.** This section, concerning source and collection of funds, was repealed by Acts 1995, No. 1256, § 20, as amended by Acts 1995 (1st Ex. Sess.), No. 13, § 4. The section was derived from Acts

1965, No. 19, §§ 6, 8; 1973, No. 229, § 2; 1975, No. 883, § 2; 1983, No. 187, § 2; A.S.A. 1947, §§ 22-946, 22-948; Acts 1993, No. 585, § 2. For present law, see § 16-10-308.

## 24-8-403. Benefits — Frequency of payment — Deficiencies for any judge of a municipal court — Proration upon insufficiency of fund for any county municipal judge.

(a) All payments of retirement benefits under this subchapter shall be payable semimonthly.

(b)(1)(A) In case the fund established by this subchapter should ever become deficient to pay retirement benefits due any person under this subchapter, the city treasurer shall verify the deficiency.

(B)(i) This deficiency shall be met by payment from the general funds of the city, and proportionately from the general funds of the



county if the salaries of the judges of the municipal courts in the county are paid partially by the county, in the amount as may be necessary to continue the timely payment of retirement benefits to the persons entitled thereto.

(ii) Provided, however, that in the case of a county municipal court judge, the deficiency shall not be met by payment from the general funds of the county.

(2) If funds thereafter accruing under this subchapter accumulate to become sufficient for the payment of benefits, then no further payment shall be made from the general funds of the city unless and until the fund provided by this subchapter should again become deficient and the deficiency is verified by the city treasurer.

(c)(1) In the case of a county municipal court judge, should the fund established under this subchapter be insufficient to pay retirement benefits due any such judge, then the fund shall be prorated among those entitled by the board as may be deemed just and equitable.

(2) For the purpose of determining how to prorate benefits, the proration shall be considered just and equitable if:

(A) The board pays the full benefit each month to all eligible retired judges until assets in the fund are depleted for the fiscal year; or

(B) The board decreases all payments to all eligible retired judges by an equal proportion for the fiscal year.

**History.** Acts 1965, No. 19, § 5; 1971, No. 300, § 1; A.S.A. 1947, § 22-945; Acts 1993, No. 585, § 3; 1995, No. 793, § 1.

**Amendments.** The 1993 amendment, in (b)(1), inserted “or county treasurer, as the case may be,” following “city treasurer”, and added the last sentence; in (b)(2), inserted “or county, as the case may be,” following “funds of the city” and added “or

county treasurer, as the case may be” at the end.

The 1995 amendment, in (b)(1), deleted “or county treasurer, as the case may be,” following “city treasurer,” inserted “not” following “the deficiency” and made minor punctuation changes; deleted “or county treasurer, as the case may be” from the end of (b)(2); and added (c).

## 24-8-404. Entitlement to benefits generally.

Any judge of a municipal court or county municipal court, licensed to practice law, established in any county having a population of one hundred fifty thousand (150,000) or more, according to the most recent federal census, in which county there are two (2) or more municipal courts, and any clerk of such a municipal court appointed by the judges thereof shall be entitled to the benefits established by this subchapter.

**History.** Acts 1965, No. 19, § 1; 1969, No. 102, § 1; A.S.A. 1947, § 22-941; Acts 1993, No. 585, § 4; 1993, No. 586, § 1.

**A.C.R.C. Notes.** Acts 1987, No. 330, § 1, provided that, in addition to all other retirement benefits prescribed by Acts 1965, No. 19, as amended, all judges and clerks of municipal courts located in cities having a population of more than 60,000

but less than 70,000 persons, according to the 1980 Federal Decennial Census, who are now retired or who retire hereafter shall be entitled to health insurance coverage to the extent that it is or was provided by the political subdivision at the time of the retirement of the judge or clerk, including their spouses and dependents who were covered at the time of

retirement, to be paid from the retirement fund created by Acts 1965, No. 19, as amended.

Acts 1997, No. 301, § 1, provided: "No person who retires after the effective date of this act shall be entitled to health

insurance coverage under Act 330 of 1987."

**Amendments.** The 1993 amendment by No. 585, § 4 and No. 586, § 1, which are identical, inserted "or county municipal court."

#### **24-8-405. Eligibility for benefits — Regular and disability retirement — Widows' rights.**

(a) A judge of a municipal court upon reaching age sixty-eight (68) and having served for a minimum of seven (7) years immediately prior to retirement may retire.

(b)(1) If incapacitating illness or disability should occur during any term to which a judge has been elected, he shall be eligible to retire at one-half ( $\frac{1}{2}$ ) pay as provided in this section.

(2) The retirement salary to be paid to the retiree shall be one-half ( $\frac{1}{2}$ ) of the salary being paid at the time of retirement for and during his natural life.

(c) Notice of retirement shall be in writing and sent to the chairman of the board of trustees who, upon finding that the applicant meets the requirements of this subchapter, shall authorize the secretary of the board to issue vouchers in payment to the applicant in accordance with the provisions of this subchapter for and during the natural life of the applicant.

(d)(1) Upon the death of a judge receiving, or eligible to receive, retirement benefits under this subchapter, leaving a widow surviving, there shall be paid to the widow for the remainder of her natural life, or until she remarries, a sum equal to one-half ( $\frac{1}{2}$ ) of the retirement pay which the deceased judge was receiving, or would have been eligible to receive, at the time of his death.

(2) Upon the death of a judge while serving in that capacity, leaving a surviving widow who has been married to and living with the judge for at least five (5) years immediately preceding his death, the widow, if not remarried prior thereto, shall, upon reaching age fifty (50), be entitled to and shall receive, until her death or remarriage, benefits in an amount equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits to which the deceased judge would have been entitled had he been eligible for retirement on the date of his death.

**History.** Acts 1965, No. 19, § 2; 1967, No. 126, § 1; 1973, No. 229, § 1; 1977, No. 721, § 2; A.S.A. 1947, § 22-942.

#### **24-8-406. Eligibility for benefits for any judge of a municipal court or county municipal court prior to 1995 — Eligibility for benefits for county municipal judge after 1995.**

(a)(1) Any judge of a municipal court or county municipal court prior to January 1, 1995, to which this subchapter applies who shall attain

age fifty (50) and who shall have served at least sixteen (16) years in office as municipal judge, or at least sixteen (16) years combined service as municipal judge and deputy prosecuting attorney, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, then he shall receive retirement pay for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

(3) Any county municipal judge who retires under this subchapter effective before January 1, 1995, shall be entitled to continue to participate in and be covered by the county health insurance program.

(b)(1) On and after January 1, 1995, any judge of a county municipal court to which this subchapter applies who shall attain age sixty-five (65) and who shall have served at least ten (10) years in office as municipal judge, or who shall have served at least twenty (20) years in office as municipal judge, whatever his or her age, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the judge resigns, retires from office, or is succeeded in office by another judge, then he shall receive retirement pay for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

**History.** Acts 1965, No. 19, § 3; 1969, No. 102, § 2; A.S.A. 1947, § 22-943; Acts 1993, No. 586, § 2; 1995, No. 793, § 2.

**Amendments.** The 1993 amendment inserted “or county municipal court” following “municipal court”; inserted “or at least sixteen (16) years combined service as municipal judge and deputy prosecut-

ing attorney” following “municipal judge”; and added the last sentence.

The 1995 amendment added (b); added the subdivision designations in (a); inserted “prior to January 1, 1995” in (a)(1); and inserted “effective before January 1, 1995” in (a)(3).

## 24-8-407. Eligibility for benefits — Twenty years of service.

(a) Any judge of a municipal court to which this subchapter applies who shall have served at least twenty (20) years in office as municipal judge, irrespective of age, shall be eligible to receive retirement benefits provided by this subchapter.

(b) If the judge resigns, retires from office, or is succeeded in office by another judge, then he shall receive retirement pay for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of his resignation, retirement, or succession in office.

**History.** Acts 1965, No. 19, § 4; 1969, No. 102, § 3; 1975, No. 637, § 1; A.S.A. 1947, § 22-944.



**24-8-408. Eligibility for benefits — Clerks.**

(a)(1) Any clerk of a municipal court to which this subchapter applies, appointed by the judge or judges of the court, who shall attain age sixty (60) and who shall have served in office as clerk for at least ten (10) years, or who shall attain age sixty-five (65) and who shall have served in office for at least eight (8) years, or who shall have served in office for at least twenty (20) years, irrespective of age, or who shall have served twenty (20) or more consecutive years, irrespective of age, as a city employee for the city in which he clerks, with eight (8) or more of those years served in the office of municipal clerk, shall be eligible to receive retirement benefits provided by this subchapter.

(2) If the clerk resigns, retires from office, or is succeeded in office by another clerk, the clerk shall receive retirement pay for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of resignation, retirement, or succession in office.

(b)(1) Any clerk of a municipal court who is covered by the provisions of this subchapter and who has seven (7) or more years of service in any position in the office of the county sheriff shall be entitled to have the service in the office of the county sheriff credited as municipal court clerk service.

(2) The service so converted shall be treated the same as if it were service as clerk of a municipal court in the county for purposes of determining eligibility for retirement under the provisions of this subchapter.

**History.** Acts 1965, No. 19, § 4; 1969, No. 102, § 3; 1975, No. 637, § 1; 1979, No. 155, § 1; 1979, No. 660, § 1; A.S.A. 1947, §§ 22-944, 22-948.1.

**Publisher's Notes.** The fourth classi-

fication in subsection (a) was held unconstitutional as special legislation in *Board of Trustees v. Beard*, 273 Ark. 423, 620 S.W.2d 295 (1981).

**CASE NOTES****Constitutionality.**

The 1979 amendment to subsection (a) of this section by Act No. 155, adding the fourth classification for municipal court clerks' eligibility for retirement, is special legislation which is prohibited by Ark. Const. Amend. 14, since this section ap-

plies only to Pulaski County and since the fourth classification's requirements would apply only to one clerk and would qualify her for immediate retirement. *Board of Trustees v. Beard*, 273 Ark. 423, 620 S.W.2d 295 (1981).

**24-8-409. Clerks' benefits — Actuarial valuations — Transfer of funds.**

(a) The city treasurer shall cause an actuarial valuation to be made of the additional liabilities created by § 24-8-408. In the event the actuary determines that the employee and employer contributions are actuarially insufficient to pay the benefits to retired municipal officers as provided by § 24-8-408, the city treasurer shall establish accounts and records to identify the estimated contributions and other income

available to actuarially fund the members' benefits when they mature and the extent that the city's member liabilities will exceed the amount of employee and employer contributions and interest thereon.

(b)(1) The city treasurer shall then calculate with the assistance of the actuary the amount of funds required annually to actuarially fund the additional unfunded liabilities created by § 24-8-408. He shall annually certify to the Chief Fiscal Officer of the State the amount required for the year to establish sufficient funds and reserves to meet the actuarial requirements of the additional benefits.

(2) The certificate of the Chief Fiscal Officer of the State shall reflect the amount of the annual extra payment to be charged against the municipality, based on the unfunded liabilities with respect to its official and employee members.

(c)(1) The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Municipal Aid Fund, from general revenues allocated to that fund for turnback to cities, to the municipality for credit to the municipal court clerks' retirement fund.

(2) From the general revenues allocated thereto for turnback to municipalities, the Chief Fiscal Officer of the State shall deduct from the Municipal Aid Fund turnback to be received by the city an amount as computed pursuant to this section required to pay retirement benefits for its elected municipal clerk.

(3) The moneys to be transferred from the Municipal Aid Fund shall not be charged against the total of the Municipal Aid Fund moneys available for distribution to cities, since it is the intent of this section that each city shall pay annually, from its municipal aid general revenues turnback, the amount of money required to meet the unfunded liability deficit in behalf of its city employee members.

**History.** Acts 1979, No. 155, § 2;  
A.S.A. 1947, § 22-944.1.

## **24-8-410. Benefits.**

Any person participating in a retirement plan authorized under this subchapter on or after July 1, 1999, shall be entitled to a retirement benefit if that person has ten (10) or more years of actual service in a plan covered by this subchapter and is at least sixty (60) years of age. If the person does not have sufficient service to draw the full benefit provided, then a partial benefit not to exceed the full benefit shall be payable when the person has reached the age requirement specified in this subchapter. The partial benefit shall be determined by multiplying the full benefit by the following fraction:

(1) The numerator shall be the number of months of actual service under the provisions of this subchapter; and

(2) The denominator shall be two hundred forty (240) months.

**History.** Acts 1999, No. 1066, § 2.

## SUBCHAPTER 5 — MUNICIPAL JUDGES AND CLERKS AND POLICE JUDGES — MISCELLANEOUS PROVISIONS

## SECTION.

24-8-501. Municipal or police judges.  
24-8-502, 24-8-503. [Repealed.]

## SECTION.

24-8-504. Clerks of city court.  
24-8-505. Benefits.

**Effective Dates.** Acts 1973, No. 480, § 3: Mar. 27, 1973. Emergency clause provided: "It is hereby ascertained and declared that the appreciation of the citizens of Arkansas should be shown to persons serving twenty (20) years or more as Municipal Judge and/or Police Judge, and that all pension benefits which such Municipal Judge or Police Judge is entitled to should be allowed them in addition to the pension allowed in this Act; therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1066, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that benefit provisions applicable to local officers and employees need revision, and that the effective administration of this act makes it necessary for these changes to begin at the start of the state's fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

### 24-8-501. Municipal or police judges.

(a)(1) Any person who has held office as municipal judge or police judge for a period of thirty (30) years or more shall receive during the remainder of his life, as a pension, one-half ( $\frac{1}{2}$ ) of the salary payable to the municipal judge of the court he served upon his retirement from office.

(2) The pension shall be payable in the same manner as the salary of the municipal judge is paid.

(b)(1) Any person who has held the office of municipal judge and, upon retirement, has accumulated not less than twenty (20) years or more of service as municipal judge or police judge shall, upon reaching sixty (60) years of age, receive, as a pension for the remainder of his life, an amount which shall be based on the salary payable to the judge of the municipal court on which he served prior to his retirement from office.

(2) The amount shall be one-half ( $\frac{1}{2}$ ) of the salary which was payable to the municipal judge of the court on July 1, 1973, but in no event shall that person receive less than one-half ( $\frac{1}{2}$ ) of the annual salary which was paid to him at the time of his retirement or at the time that he was succeeded by another judge.

(3) The pension shall be payable in the same manner as the salary of the municipal judge is paid.



(4) Any municipal judge who is entitled to a pension under any previous act shall be entitled to receive his pension benefits under this section.

(c)(1) Any person who has served four (4) or more years as a member of the General Assembly and has held the office of municipal judge and, upon retirement, has accumulated not less than twelve (12) years of service as municipal judge shall receive, upon reaching sixty (60) years of age, as a pension for the remainder of his life, an amount which shall be based on the salary payable to the judge of the municipal court on which he served prior to retirement from office.

(2) The amount shall be three-tenths ( $\frac{3}{10}$ ) of the salary of the present municipal judge, but in no event shall that person receive less than three-tenths ( $\frac{3}{10}$ ) of the salary which was paid to him at the time of his retirement or at the time he was succeeded by another judge.

(3) The pension shall be paid in the same manner as provided in this section for judges having twenty (20) years or more of service.

**History.** Acts 1953, No. 160, § 1; 1969, No. 279, § 1; 1971, No. 62, § 1; 1973, No. 480, § 1; 1975, No. 998, § 1; A.S.A. 1947, § 22-739; Acts 1995, No. 555, § 1.

**Amendments.** The 1995 amendment repealed former (b).

## 24-8-502, 24-8-503. [Repealed.]

**Publisher's Notes.** These sections, concerning municipal clerks in counties with a population between 75,500 and 80,000 and municipal clerks in cities with a population between 25,300 and 27,000, were repealed by Acts 1995, No. 555, § 1.

They were derived from the following sources:

24-8-502. Acts 1959, No. 103, §§ 1-4; A.S.A. 1947, §§ 22-744 — 22-747.

24-8-503. Acts 1971, No. 83, § 1; A.S.A. 1947, § 22-743.

## 24-8-504. Clerks of city court.

(a) Any clerk of a city court established in any county, appointed by the judges thereof, may be entitled to the benefits prescribed in this section for such clerks.

(b)(1) Any clerk of a city court to which this section applies, appointed by the judges of the court, who shall attain age sixty (60) and who shall have served in office as clerk for at least ten (10) years, or who shall have served in office for at least twenty (20) years, irrespective of age, may be eligible to receive retirement benefits provided by this section.

(2) If the clerk resigns, retires from office, or is succeeded in office by another clerk, the clerk shall receive retirement benefits for and during the remainder of his natural life in an amount equal to one-half ( $\frac{1}{2}$ ) of the salary payable to him at the time of resignation, retirement, or succession in office.

(c) Upon the approval of the governing body of the city and following a determination of the actuarial soundness of the fund from which the benefits shall be paid, any court clerk of a city court who upon reaching age sixty-eight (68) will have served for a minimum of seven (7) years

immediately prior to severance from employment may retire with a reduced benefit in an amount equal to seven-tenths ( $\frac{7}{10}$ ) of the benefit payable under this section.

(d) The city council or board of directors of each city of the second class may elect by ordinance to establish the retirement system for city court clerks authorized by this section.

**History.** Acts 1991, No. 40, § 1.

**24-8-505. Benefits.**

Any person participating in a retirement plan authorized under this subchapter on or after July 1, 1999, shall be entitled to a retirement benefit if that person has ten (10) or more years of actual service in a plan covered by this subchapter and is at least sixty (60) years of age. If the person does not have sufficient service to draw the full benefit provided, then a partial benefit not to exceed the full benefit shall be payable when the person has reached the age requirement specified in this subchapter. The partial benefit shall be determined by multiplying the full benefit by the following fraction:

- (1) The numerator shall be the number of months of actual service under the provisions of this subchapter; and
- (2) The denominator shall be two hundred forty (240) months.

**History.** Acts 1999, No. 1066, § 3.

**SUBCHAPTER 6 — DEFERRED RETIREMENT OPTION PLAN**

SECTION.

24-8-601 — 24-8-604. [Repealed.]

**24-8-601 — 24-8-604. [Repealed.]**

**Publisher's Notes.** This subchapter was repealed by Acts 1999, No. 399, § 4. The subchapter was derived from the following sources:

- 24-8-601. Acts 1997, No. 1162, § 1.
- 24-8-602. Acts 1997, No. 1162, § 2.
- 24-8-603. Acts 1997, No. 1162, § 3.
- 24-8-604. Acts 1997, No. 1162, § 4.

**SUBCHAPTER 7 — TIER TWO ACTUAL JUDICIAL SERVICE BENEFIT PLAN**

SECTION.

- 24-8-701. Legislative history, findings, and intent.
- 24-8-702. Definitions.
- 24-8-703. Creation of Tier Two Actual Judicial Service Benefit Plan.
- 24-8-704. Membership generally.
- 24-8-705. Members electing coverage.
- 24-8-706. Contributions — Members — Refund.
- 24-8-707. Contributions — State.
- 24-8-708. Contributions — Cessation

SECTION.

- upon maximum benefit eligibility.
- 24-8-709. Actual service requirement.
- 24-8-710. Eligibility for benefits — Retirement generally.
- 24-8-711. Eligibility for benefits — Early retirement.
- 24-8-712. Eligibility for benefits — Disability retirement.
- 24-8-713. Retirement and survivors' benefits generally.
- 24-8-714. Restrictions on benefits.

## SECTION.

24-8-715. Redetermination of benefits.

24-8-716. Effect on other laws.

## SECTION.

24-8-717. Redetermination of benefits.

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**A.C.R.C. Notes.** References to “this subchapter” in §§ 24-8-701 — 24-8-716 may not apply to § 24-8-717 which was enacted subsequently.

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## 24-8-701. Legislative history, findings, and intent.

(a) It is found and determined by the General Assembly that the creation of the Tier Two Actual Judicial Service Benefit Plan is part of a history of judicial retirement legislation that has sought to develop a more equitable retirement system for judges and thereby remove the need for judges to be involved in the political process through lobbying for retirement benefits and privileges.

(b)(1) At one time member contributions were not sufficient to fund the system and therefore it was necessary for the Chief Justice of the Arkansas Supreme Court and other members of the judicial system to ask the General Assembly for funds to pay benefits for retired judges and justices. In 1983 the need for members of the judiciary to be involved in the political process was reduced by the establishment of an actuarial funding method and by transfer of the administration of the Arkansas Judicial Retirement System to the Arkansas Public Employees’ Retirement System.

(2) Initially the Arkansas Judicial Retirement System allowed a judge with fifteen (15) years of elective service to retire upon reaching age sixty-five (65). However, this system was awkward and some judges with many years of service did not qualify for benefits because the system did not provide for graduated benefits. Because of this “all or nothing” plan, the law has been amended a number of times to help judges qualify for benefits through use of credited service.

(3) The use of credited service substantially changed the Arkansas Judicial Retirement System. The system was changed to allow an active member with ten (10) years of credited service to retire upon reaching age sixty-five (65) and to allow other members with twenty (20) years of credited service to retire regardless of age, or a member with fourteen (14) years of service to retire upon reaching age sixty-five (65). At the time of the passage of this act, the average retirement benefit paid by the Arkansas Judicial Retirement System was based on approximately twelve (12) years of actual service.

(4) The reasons for including credited service are not as strong as they once were because reciprocity exists among state-supported retirement systems. A judge with military service and who is employed or becomes employed in a position covered by another state-supported retirement system may obtain credited service in the other system for that military service.



(5) In 1997 legislation was adopted to authorize the establishment of a judicial deferred retirement option plan. The legislation was enacted in response to the average retirement benefit paid by the Arkansas Judicial Retirement System being based on only twelve (12) years of actual service. The legislature sought to encourage longer actual service by judges and justices.

(6) For two (2) years the Joint Committee on Public Retirement and Social Security Programs and the Arkansas Judicial Council discussed ways to establish a fair retirement system and to eliminate the need for members of the judicial system to be involved in the political process in order to obtain equitable treatment. It was agreed that the Arkansas Judicial Retirement System had good benefits but that other aspects of the system needed revision. After discussion and negotiation between the Joint Committee on Public Retirement and Social Security Programs and the Arkansas Judicial Council it was agreed that the authorization for a judicial deferred retirement option plan should be repealed and that a new system judicial retirement plan should be established that would be based on actual service and which would provide graduated benefits for judges and justices.

(c) It is found and determined by the General Assembly that the legislative history of the development of the Tier Two Actual Judicial Service Benefit Plan demonstrates that the purpose of this subchapter is to provide a fair retirement plan based on actual service and to provide for graduated benefits for retired judges and justices. Therefore, any future attempt to add credited service into this plan would run contrary to the legislative history of this act and the agreements that resulted in the adoption of this plan, and would constitute a major breach of a negotiated change in judicial retirement that balanced the removal of credited service provisions with provisions to allow judges and justices to have graduated benefits and earlier benefit rights.

**History.** Acts 1999, No. 399, § 1.

**Meaning of "this act".** Acts 1999, No. 399, codified as §§ 24-1-106, 24-2-501, 24-8-218, 24-8-701 — 24-8-716. As to the

"passage of this act," Acts 1999, No. 399, was approved March 4, 1999, and became effective July 30, 1999.

## **24-8-702. Definitions.**

As used in this subchapter:

(1) "Board" means the Board of Trustees of the Arkansas Judicial Retirement System;

(2) "Consumer price index" means the consumer price index for all urban consumers, as determined by the United States Department of Labor, in effect on January 1, 1999, except that if the consumer price index is subsequently reconstructed in a manner materially changing its character, the board, after receiving the advice of the actuary, shall change the application of the consumer price index so that, as far as practicable, the intent of the use of the consumer price index shall be continued;

(3) "Executive director" means the Executive Director of the Arkansas Public Employees' Retirement System; and

(4) "System" means the Arkansas Judicial Retirement System.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-703. Creation of Tier Two Actual Judicial Service Benefit Plan.**

A Tier Two Actual Judicial Service Benefit Plan for the Arkansas Judicial Retirement System is established pursuant to this subchapter.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-704. Membership generally.**

(a) Whether elected or appointed to office, all chancery, circuit, and circuit-chancery judges, judges of the Arkansas Court of Appeals, and justices of the Arkansas Supreme Court shall participate in the Arkansas Judicial Retirement System.

(b) A person who becomes a member of the system on or after July 30, 1999, shall participate in the Tier Two Actual Judicial Service Benefit Plan for the system.

(c) Any active member who was a member of the system before July 30, 1999, shall have until the end of the term of office in which the member is serving on July 30, 1999, to elect coverage under the benefit provisions of this subchapter. A former member who was an active member on December 31, 1998, shall have until July 31, 1999, or ninety (90) days after July 30, 1999, whichever is later, to elect coverage under the benefit provisions of the subchapter. The election shall be made as directed by the Board of Trustees of the Arkansas Judicial Retirement System and shall be irrevocable.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-705. Members electing coverage.**

(a) A member electing coverage under this subchapter shall be entitled to:

(1) A refund to the member for any credited service purchased under the Arkansas Judicial Retirement System together with six percent (6%) interest compounded annually from the date of payment;

(2) Restoration of service to another state-supported retirement system of any credited service that had been transferred to the Arkansas Judicial Retirement System upon refunding to that system any sums transferred by that system along with six percent (6%) interest compounded annually from the date of the transfer; or

(3) Substitute purchased service for actual service for which no member contribution was made, as provided under subsection (b) of this section.

(b)(1) A member or former member who elects coverage under this subchapter and who has accrued additional actual service prior to the date of transfer but after the date member contributions ceased shall pay to the Arkansas Judicial Retirement System on the effective date of transfer the contributions that would have been paid on the additional actual service at the rate of five percent (5%) of the pay received along with six percent (6%) interest computed annually from the date the contributions would have been paid to the effective date of transfer. However, in no instance, shall the member be required to pay contributions on active service that would exceed the amount required in § 24-8-708.

(2)(A) If the member or former member has actual service for which no member contributions were made, then purchased service may be used to reduce the period of actual service for which payments are due under subdivision (b)(1) of this section. The purchased service may be subtracted from the period of actual service for which contributions were not made and the member or former member shall make payments only on the remaining period. However, purchased service shall not be substituted for contributions required for actual service occurring after the first twenty (20) years of actual service.

(B) Purchased service substituted for actual service under subsection (b) of this section shall be the most expensive service purchased by the member.

(C) If the member or former member has credited service remaining after making the substitution allowed under this subsection, the remaining credited service may be refunded under subdivision (a)(1) of this section or restored to another state system under subdivision (a)(2) of this section.

(D) Any purchased service substituted under subsection (b) of this section may not be used as credited service in another state-supported system.

**History.** Acts 1999, No. 399, § 1.

## **24-8-706. Contributions — Members — Refund.**

(a) The contribution of each member of the Tier Two Actual Judicial Service Benefit Plan for the Arkansas Judicial Retirement System shall be five percent (5%) of each member's annual salary.

(b) If a judge or justice ceases to be a member prior to qualifying for retirement benefits, he or she shall be entitled to a refund of all contributions paid by him or her into the system. If a judge or justice who has received a refund returns to covered employment under the Arkansas Judicial Retirement System or a reciprocal system as defined in § 24-2-401(3), the person shall be eligible in accordance with methods and procedures established by the Board of Trustees of the Arkansas Judicial Retirement System to repay the refund and restore the service forfeited when the refund was received.



(c) For purposes of deferring federal and state income tax and pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code, 26 U.S.C. 414(h)(2), as adopted by § 26-51-414, the state shall pick up the members' contributions to the Judicial Retirement Fund under the Tier Two Actual Judicial Service Benefit Plan for the Arkansas Judicial Retirement System. Member contributions picked up by the state shall be paid from the same source of funds used for the payment of salary to a member. A deduction shall be made from each member's salary, equal to the amount of the member's contribution picked up by the employer. For all other purposes, member contributions picked up by the state shall be considered member contributions.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-707. Contributions — State.**

(a) The state, as employer, shall make contributions to the Arkansas Judicial Retirement System of twelve percent (12%) of the active member payroll.

(b) The Chief Fiscal Officer of the State is authorized and directed to make annual transfers each July 1 to the Judges Retirement Fund from the Constitutional Officers Fund and the State Central Services Fund such amounts of money equal to the difference between the statutory employer contribution rate and the actuarially computed employer contribution rate as determined in the most recent actuarial valuation.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-708. Contributions — Cessation upon maximum benefit eligibility.**

When a judge or justice has sufficient service to receive the maximum benefit under § 24-8-712(a), no further contribution shall be required.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-709. Actual service requirement.**

Benefits and eligibility for benefits under this subchapter shall be based on actual service in the Arkansas Judicial Retirement System. Laws allowing the purchase of credited service or providing free credited service shall not apply to this subchapter. However, the provisions of § 24-2-401 et seq. may be used to meet the service requirements of this subchapter.

**History.** Acts 1999, No. 399, § 1; 1999, No. 1067, § 4.

#### **24-8-710. Eligibility for benefits — Retirement generally.**

(a) Any member who has a minimum of twenty (20) years of actual service may retire regardless of age, and any judge or justice who has

served at least eight (8) years shall be eligible for benefits upon reaching age sixty-five (65).

(b)(1) Any judge or justice who becomes seventy (70) years of age during a term of office to which he or she has been elected may complete the term without forfeiting his or her rights to retirement benefits under this section.

(2)(A) Any judge or justice who is not eligible to retire at age seventy (70) may continue to serve as judge or justice until the completion of the term of office in which he or she has sufficient service to retire without losing his or her retirement benefits.

(B) The judge or justice shall lose all retirement benefits if he or she serves beyond the end of the term needed to get sufficient service to retire.

(3)(A) Otherwise, judges or justices must retire by their seventieth birthday or lose their retirement benefits.

(B) However, any active judge or justice who was serving prior to July 1, 1965, may continue to serve until any age and upon retirement shall be eligible to receive retirement benefits.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-711. Eligibility for benefits — Early retirement.**

(a) Any member of the Tier Two Actual Judicial Service Benefit Plan for the Arkansas Judicial Retirement System who has eight (8) years or more of actual service in the system may elect to retire and receive retirement benefits at any time after reaching age sixty-two (62) and before reaching age sixty-five (65).

(b) The retirement benefits of a member electing to retire before age sixty-five (65) with less than twenty (20) years of actual service shall be reduced six percent (6%) for each full year and proportionately for any part of a year that the judge or justice retires before reaching age sixty-five (65).

**History.** Acts 1999, No. 399, § 1.

#### **24-8-712. Eligibility for benefits — Disability retirement.**

(a) Any member under the Tier Two Actual Judicial Service Benefit Plan of the Arkansas Judicial Retirement System who has served a minimum of three (3) consecutive years as a member of the system shall receive retirement benefits if any incapacitating disability as determined by the Judicial Retirement Board shall occur during any term for which the judge or justice has been elected.

(b)(1) A judgment of disability should not be granted by the board until it is reasonably assured of a judge's or justice's permanent physical or mental incapacity to perform the duties of his or her judicial office.

(2) The board should act only upon proper certification of incapacity by two (2) or more physicians.

**History.** Acts 1999, No. 399, § 1.

### **24-8-713. Retirement and survivors' benefits generally.**

(a) The retirement benefits to be paid an eligible and qualified member under the provisions of this section shall be an amount equal to three percent (3%) of annual salary payable to the last judicial office held multiplied by the number of years of actual service under the Arkansas Judicial Retirement System but not to exceed an amount equal to seventy-five percent (75%) of salary. The retirement benefits shall be payable for the recipient's life.

(b)(1) Survivors' benefits shall be one-half ( $\frac{1}{2}$ ) of the amount of the retirement benefits.

(2) Upon the death of an active judge or justice who has served at least three (3) years, his or her survivors shall receive a sum equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits provided in subsection (a) of this section.

(3) Survivors' benefits shall be payable as follows:

(A) If the decedent is survived by a spouse to whom he has been married for not less than five (5) years and with whom he is living at the time of his or her death, and if he is not survived by any minor child or children, then the spouse shall draw for life, or until remarriage, a sum equal to one-half ( $\frac{1}{2}$ ) of the benefits provided in subsection (a) of this section;

(B)(i) If the decedent is survived by both an eligible spouse and minor children, then one-half ( $\frac{1}{2}$ ) of the survivors' benefits shall be paid to the spouse for life, or until remarriage. The other one-half ( $\frac{1}{2}$ ) of the survivors' benefits shall be paid to the guardian of the minor children during the period of minority.

(ii) When all of the children cease to be minors, then the survivors' benefits paid to the minor children shall be paid to the spouse;

(C) If the decedent is not survived by an eligible spouse but is survived by minor children, then the survivors' benefits, i.e., one-half ( $\frac{1}{2}$ ) of the benefits provided in subsection (a) of this section, shall be payable to the guardian of the minor children during the period of minority.

(4) If a surviving spouse who is receiving survivors' benefits under this section remarries and the benefits are discontinued and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(5) No surviving spouse shall be eligible to receive survivors' benefits on more than one (1) member account.

(c) The retirement benefits and survivors' benefits provided for in this section shall be based on the salary for the judicial office last held by the member qualifying for retirement as fixed by law at the time of the member's retirement.



(d)(1) Entitlement to retirement compensation and survivors' benefits shall be evidenced by the certificate of the Board of Trustees of the Arkansas Judicial Retirement System transmitted to the executive director.

(2) All retirement compensation and survivors' benefits shall be paid monthly from the Judges Retirement Fund.

(3) All retirement and survivors' benefits provided by this subchapter shall be paid from the Judges Retirement Fund to be administered by the executive director and staff of the Arkansas Public Employees' Retirement System.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-714. Restrictions on benefits.**

(a) The sections of this subchapter are to be complementary, except that no person may take benefits under two (2) or more sections of this subchapter at the same time.

(b) Retirement and survivors' benefits shall be measured by the salary payable for the position last held by the retired or deceased judge or justice at the time of retirement.

**History.** Acts 1999, No. 399, § 1.

#### **24-8-715. Redetermination of benefits.**

(a) Each July 1 the Arkansas Judicial Retirement System shall redetermine the amount of each monthly benefit which has been payable by the system under the Tier Two Actual Judicial Service Benefit Plan for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months.

(b) Subject to the maximum stated in subsection (c) of this section, the redetermined amount shall be the amount of benefit payable as of the immediately preceding July 1 increased by three percent (3%).

(c) In no event shall the redetermined amount be more than the amount of the benefit payable as of the immediately preceding July 1 multiplied by the following fraction:

(1) The numerator shall be the average of the consumer price index for the twelve (12) calendar months in the calendar year immediately preceding July 1, but in no event an amount less than the denominator; and

(2) The denominator shall be the average of the consumer price index for the twelve (12) calendar months in the calendar year second preceding the redetermination date.

**History.** Acts 1999, No. 399, § 1.

1999, No. 1067, § 2, as codified at 24-8-

**Publisher's Notes.** The provisions of § 24-8-715 may be superseded by Acts

717.

**24-8-716. Effect on other laws.**

The provisions of this subchapter shall be accumulative to all present laws pertaining to the retirement of judges of the circuit, chancery, and circuit-chancery courts and of justices of the Arkansas Supreme Court and shall in no way repeal, amend, or modify such laws except as otherwise specifically provided in this subchapter.

**History.** Acts 1999, No. 399, § 1.

**24-8-717. Redetermination of benefits.**

Notwithstanding § 24-8-715 as enacted by Acts 1999, No. 399, § 1, each July 1 the Arkansas Judicial Retirement System shall redetermine the amount of each monthly benefit which has been paid by the system under the Tier Two Actual Judicial Service Benefit Plan for at least twelve (12) full calendar months. The redetermined amount shall be payable for the following twelve (12) calendar months. The redetermined amount shall be the amount of the benefit payable as of the immediately preceding July 1 increased by three percent (3%).

**History.** Acts 1999, No. 1067, § 2.

**A.C.R.C. Notes.** References to "this subchapter" in §§ 24-8-701 — 24-8-716

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